

Calvert Harman McKinney Sherwood Sweeney Velazquez
Camp Hart McNulty Shimkus Tancredo Vitter
Cannon Hastings (FL) Meehan Shows Walden
Cantor Hastings (WA) Meek (FL) Shuster Tauscher Walsh
Capito Hayes Meeks (NY) Simmons Tauzin Wamp
Capps Hayworth Menendez Taylor (MS) Waters
Capuano Hefley Mica Skenen Taylor (NC) Watkins
Cardin Herger Millender- Skelton Terry Watt (NC)
Carson (IN) Hill McDonald Slaughter Thomas Watts (OK)
Carson (OK) Hilleary Miller (FL) Smith (MI) Thompson (CA) Waxman
Castle Hilliard Miller, Gary Smith (NJ) Thompson (MS) Weiner
Chabot Hinchey Miller, George Smith (TX) Thornberry Weldon (FL)
Chambliss Hinojosa Mink Smith (WA) Thune Weldon (PA)
Clay Hobson Snyder Thurman Weller
Clayton Hoeft Solis Tiahrt Wexler
Clement Hoekstra Souder Tiberi Whitfield
Clyburn Holden Moran (VA) Spence Tierney Wicker
Coble Holt Morella Toomey Wilson
Collins Honda Murtha Towns Wolf
Combest Hooley Myrick Towns Woolsey
Condit Horn Nadler Strickland Turner Wu
Conyers Hostettler Napolitano Stump Udall (CO) Wynn
Cooksey Houghton Neal Stupak Udall (NM) Young (AK)
Costello Hoyer Nethercutt Sununu Upton Young (FL)
Cox Hulshof Ney
Coyne Hunter Northup
Cramer Hyde Norwood
Crenshaw Inslee Nussle
Crowley Isakson Oberstar
Culberson Israel Obey
Cummings Issa Oliver
Cunningham Istook Ortiz
Davis (CA) Jackson (IL) Osborne
Davis (FL) Jackson-Lee Ose
Davis (IL) (TX) Otter
Davis, Jo Ann Jefferson Owens
Davis, Tom Jenkins Oxley
Deal Johnson (CT) Pallone
DeFazio Johnson (IL) Pascarell
DeGette Johnson, E. B. Pastor
Delahunt Johnson, Sam Payne
DeLauro Jones (NC) Pelosi
DeLay Jones (OH) Pence
DeMint Kanjorski Peterson (MN)
Deutsch Kaptur Peterson (PA)
Diaz-Balart Keller Petri
Dicks Kelly Phelps
Dingell Kennedy (MN) Pickering
Doggett Kerns Pitts
Dooley Kildee Platts
Doolittle Kilpatrick Pombo
Doyle Kind (WI) Pomeroy
Duncan King (NY) Portman
Dunn Kingston Price (NC)
Edwards Kirk Pryce (OH)
Ehlers Kleczka Putnam
Ehrlich Knollenberg Quinn
Emerson Kucinich Radanovich
Engel LaFalce Rahall
English LaHood Ramstad
Eshoo Lampson Rangel
Etheridge Langevin Regula
Evans Lantos Rehberg
Everett Largent Reyes
Farr Larsen (WA) Reynolds
Fattah Larson (CT) Riley
Ferguson Latham Rivers
Filner LaTourette Rodriguez
Fletcher Leach Roemer
Foley Lee Rogers (KY)
Ford Levin Rogers (MI)
Fossella Lewis (CA) Rohrabacher
Frank Lewis (GA) Ros-Lehtinen
Frelinghuysen Lewis (KY) Ross
Frost Linder Rothman
Gallegly Lipinski Roukema
Ganske LoBiondo Roybal-Allard
Gekas Lofgren Royce
Gephardt Lowey Rush
Gibbons Lucas (KY) Ryan (WI)
Gilchrest Lucas (OK) Ryun (KS)
Gillmor Luther Sabo
Gonzalez Maloney (CT) Sanchez
Goode Maloney (NY) Sanders
Goodlatte Manzullo Sandlin
Gordon Markey Sawyer
Goss Mascara Saxton
Graham Matheson Scarborough
Granger Matsui Schaffer
Graves McCarthy (MO) Schakowsky
Green (TX) McCarthy (NY) Schiff
Green (WI) McCollum Schrock
Greenwood McCrery Scott
Grucci McDermott Sensenbrenner
Gutierrez McGovern Serrano
Gutknecht McHugh Sessions
Hall (OH) McInnis Shaw
Hall (TX) McIntyre Shays
Hansen McKeon Sherman

Armey Dreier Paul
Barton Flake Shadegg
Crane Kolbe Stark
Baker Hutchinson Moakley
Cubin John Visclosky
Gilman Kennedy (RI)

NOES—9

NOT VOTING—8

□ 1537

So the amendment was agreed to.
The result of the vote was announced
as above recorded.

Stated for:

Mr. GILMAN. Mr. Chairman, earlier today, I was unavoidably delayed during the vote on the Traficant Amendment to H.R. 1. Accordingly, I was unable to vote on rollcall No. 140. If I had been present I would have voted "yea."

PERSONAL EXPLANATION

Mr. KENNEDY of Rhode Island. Mr. Chairman, on rollcall Nos. 136, 137, and 140, I was at a subcommittee on Appropriations hearing. Had I been present, I would have voted "nay" on 137, "nay" on 136, and "yea" on 140.

The CHAIRMAN pro tempore (Mr. BONILLA). It is now in order to consider amendment No. 20 printed in House Report 107-69.

AMENDMENT NO. 20 OFFERED BY MR. BRADY OF TEXAS

Mr. BRADY of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 20 offered by Mr. BRADY of Texas:

Strike part D of title II of the Elementary and Secondary Education Act of 1965, as proposed to be added by section 203 of the bill, and insert the following:

"PART D—TEACHER LIABILITY PROTECTION**"SEC. 2301. SHORT TITLE.**

"This part may be cited as the 'Paul Coverdell Teacher Liability Protection Act of 2001'.

"SEC. 2302. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress makes the following findings:

"(1) The ability of teachers, principals and other school professionals to teach, inspire and shape the intellect of our Nation's elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

"(2) Each year more and more teachers, principals and other school professionals face lawsuits for actions undertaken as part of their duties to provide millions of school children quality educational opportunities.

"(3) Too many teachers, principals and other school professionals face increasingly severe and random acts of violence in the classroom and in schools.

"(4) Providing teachers, principals and other school professionals a safe and secure environment is an important part of the effort to improve and expand educational opportunities.

"(5) Clarifying and limiting the liability of teachers, principals and other school professionals who undertake reasonable actions to maintain order, discipline and an appropriate educational environment is an appropriate subject of Federal legislation because—

"(A) the scope of the problems created by the legitimate fears of teachers, principals and other school professionals about frivolous, arbitrary or capricious lawsuits against teachers is of national importance; and

"(B) millions of children and their families across the Nation depend on teachers, principals and other school professionals for the intellectual development of children.

"(b) PURPOSE.—The purpose of this part is to provide teachers, principals and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline and an appropriate educational environment.

"SEC. 2303. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

"(a) PREEMPTION.—This part preempts the laws of any State to the extent that such laws are inconsistent with this part, except that this part shall not preempt any State law that provides additional protection from liability relating to teachers.

"(b) ELECTION OF STATE REGARDING NON-APPLICABILITY.—This part shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

"(1) citing the authority of this subsection;

"(2) declaring the election of such State that this part shall not apply, as of a date certain, to such civil action in the State; and

"(3) containing no other provisions.

"SEC. 2304. LIMITATION ON LIABILITY FOR TEACHERS.

"(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsections (b) and (c), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

"(1) the teacher was acting within the scope of the teacher's employment or responsibilities related to providing educational services;

"(2) the actions of the teacher were carried out in conformity with local, State, and Federal laws, rules and regulations in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

"(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

"(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

"(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft,

or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

- “(A) possess an operator’s license; or
- “(B) maintain insurance.

“(b) **CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES.**—Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

“(c) **EXCEPTIONS TO TEACHER LIABILITY PROTECTION.**—If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

“(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

“(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

“(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

“(d) **LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS.**—

“(1) **GENERAL RULE.**—Punitive damages may not be awarded against a teacher in an action brought for harm based on the action of a teacher acting within the scope of the teacher’s responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such teacher which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

“(2) **CONSTRUCTION.**—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

“(e) **EXCEPTIONS TO LIMITATIONS ON LIABILITY.**—

“(1) **IN GENERAL.**—The limitations on the liability of a teacher under this part shall not apply to any misconduct that—

“(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

“(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

“(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

“(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

“(2) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to affect subsection (a)(3) or (d).

“SEC. 2305. LIABILITY FOR NONECONOMIC LOSS.

“(a) **GENERAL RULE.**—In any civil action against a teacher, based on an action of a teacher acting within the scope of the teacher’s responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

“(b) **AMOUNT OF LIABILITY.**—

“(1) **IN GENERAL.**—Each defendant who is a teacher, shall be liable only for the amount of noneconomic loss allocated to that de-

fendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

“(2) **PERCENTAGE OF RESPONSIBILITY.**—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant’s harm.

“SEC. 2306. RULE OF CONSTRUCTION.

“Nothing in this part shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

“SEC. 2307. DEFINITIONS.

“For purposes of this part:

“(1) **ECONOMIC LOSS.**—The term ‘economic loss’ means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

“(2) **HARM.**—The term ‘harm’ includes physical, nonphysical, economic, and noneconomic losses.

“(3) **NONECONOMIC LOSSES.**—The term ‘noneconomic losses’ means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

“(4) **SCHOOL.**—The term ‘school’ means a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 14101, or a home school.

“(5) **STATE.**—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

“(6) **TEACHER.**—The term ‘teacher’ means a teacher, instructor, principal, administrator, or other educational professional that works in a school, a local school board and any member of such board, and a local educational agency and any employee of such agency.

“SEC. 2308. APPLICABILITY.

“This part applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.”.

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from Texas (Mr. BRADY) and the gentleman from Michigan (Mr. KILDEE) each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Chairman, I yield myself 3 minutes.

Safe schools for students and teachers concerns us all, and from the shoot-

ings in Columbine to the recent shootings at Santana High School, all of us debate in this Chamber how to make our schools safer, how to make sure that our teachers and students are safe and return home safely each year. While we may disagree on some of the ways to do that, we are, in a bipartisan way, strongly supportive of returning order and discipline to our classrooms, and that is what this amendment is about: protecting teachers and schools from frivolous lawsuits when they responsibly maintain order and discipline in the classroom.

Schools are becoming more and more dangerous. Teachers tell us they do not feel safe in their own school. They tell us they are afraid to discipline unruly students, afraid to stop fights among those students, afraid to even defend themselves. The reason is that teachers may face an expensive and career-damaging lawsuit by overzealous lawyers. And, worse yet, there is a good chance they will be humiliated again when their responsible decision to maintain order in the classroom is not backed up by the principals and the school boards who face constant threats of expensive, frivolous, harassing lawsuits. In the end, it is the children who suffer.

As the American Federation of Teachers have said in their report on how to prevent violence in our schools, it is low-performing schools who suffer from the lack of safe and orderly learning environments. Teaching and learning are almost impossible to achieve in an environment of disorder, disrespect and fear. As our teachers tell us, no one has ever learned in the classroom where one or two kids take up 90 percent of the time through disruption, violence or threats of violence. That is why in poll after poll, educators rank discipline and safety high on their list of education concerns. So do we as parents, and so do the students.

This is what this bill does. This bill ensures that dedicated teachers trying to maintain a safe classroom are not afraid of being hauled into court for doing the responsible thing. This measure establishes a national shield to protect teachers, principals and other education professionals, including our school boards, who take responsible actions. The amendment does not protect educators or school boards when they engage in willful, reckless or criminal misconduct, when they engage in criminal acts, in violations of State or Federal civil rights laws, inappropriate use of drugs or alcohol, or behave with a conscious, flagrant indifference to the rights or safety of an individual harmed. We preserve States’ rights with an easy opt-out, and we do not affect State law or local rules regarding corporal punishment.

Let me tell my colleagues what one teacher from Houston wrote me. “In another classroom,” he wrote, “two girls had a fight today. The teacher got knocked down, was hit twice in the head and when he fell to the ground, was kicked twice by the girls. This

teacher could not touch these girls to separate them. We have been told over and over again, do not touch the students, even to defend yourself. It is recommended that you do not touch the child. Seven little letters tell us why: Lawsuit." This teacher wrote, "Do they have any idea what teachers go through on a daily basis? We only want to be protected. Is a little peace of mind in the classroom too much to ask?"

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT).

(Mr. SCOTT asked and was given permission to revise and extend his remarks.)

Mr. SCOTT. Mr. Chairman, I rise in opposition to the amendment.

This amendment is advertised as providing liability protection for teachers, but the amendment defines "teacher" to include not only those that my colleagues and I might think of as teachers, but also any individual who works in a school, any member of the school board, any employee of a local education agency, as well as the school board and local education entity itself.

Immunizing every responsible individual and then immunizing the school system itself, as the Brady amendment would do, means that nobody would be responsible to a parent when a child is injured by a negligent act or omission at the school. The Brady amendment would ensure that schools will virtually never be accountable to parents regarding the safety and discipline for their children.

For example, the Brady amendment would eliminate accountability for negligent hiring decisions and would place schools and children at risk. Often, we have people who are hired as professional hall guards or monitors. This amendment would immunize principals and administrators who fail to make proper background checks and hire a violent or sexual predator as disciplinarian. Because the school administration is also immunized, nobody would be responsible.

□ 1545

There would be immunity for school administrators who single out African American students or members of another protected class for discipline and punishment in violation of their civil rights, or a school employee who negligently restrains a student, and the student is injured or dies as a result. Then no one would be responsible, so no one will take precautions to make sure that these things do not happen.

School boards and educational agencies owe the highest duty to our schoolchildren. They ultimately are responsible for every teacher or principal's decision regarding discipline or punishment of students. This bill would not only shield teachers, but also school boards and local governments from any responsibility.

The theme throughout the reauthorization of ESEA has been accountability of schools to parents and children. This amendment would violate that goal by providing immunity to school administrators, school personnel, school boards, and local education agencies for actions that harm the health and welfare of our children that they owe a duty to protect. I ask that Members vote no on this amendment.

I would also point out that the National Education Association has come out against this amendment. They say that the amendment provides for immunity for every responsible party in the school and the school system itself. The amendment would eliminate all responsibility to parents when a child is injured by disciplinary actions.

Mr. Chairman, I include for the RECORD the letter from the National Education Association.

The letter is as follows:

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, May 21, 2001.
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the National Education Association's (NEA) 2.6 million members, we urge your opposition to the Brady amendment to the ESEA reauthorization bill (H.R. 1) that would in effect remove all accountability for disciplinary actions that result in harm to the health or welfare of students.

NEA does not oppose efforts to strengthen liability protections for education employees. Unlike the McConnell amendment in the Senate ESEA bill (S. 1), however, the Brady amendment provides immunity for every responsible party in a school and the school system itself—including the school board and local education agency as entities. This amendment would eliminate all responsibility to parents when a child is injured by disciplinary actions.

Immunizing school boards and local education agencies will not improve discipline in the classroom. Instead, the amendment will place students at risk, while undermining the focus on accountability to parents and children central to the ESEA bill.

We urge your opposition to this dangerous amendment.

Sincerely,

MARY ELIZABETH TEASLEY,
Director of Government Relations.

Mr. BRADY of Texas. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, this bill holds all teachers, all school boards, all educators equally accountable for willful, reckless, criminal misconduct, criminal acts, negligence, gross negligence, violations of State and Federal laws.

I would point out, it is endorsed by our secondary school principals, our elementary school principals, and many teachers and parents.

Mr. Chairman, I yield 1½ minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Chairman, I thank the gentleman for his amendment, and for yielding time to me.

One of the chronic complaints we hear about public education is a lack of discipline. In fact, I hear more about that than any other single issue from

our public schools today, and the concerns expressed by teachers that they might be sued if they attempt to discipline students.

In fact, their concerns are not unfounded. Thirty-one percent of all high schools have faced lawsuits or out-of-court settlements in the past 2 years. Teachers are not only wary of intervening physically in student confrontations, but there are times when teachers have to make judgment calls about disciplining a child whose behavior is distracting rather than dangerous.

Some teachers err, frankly, on the side of leniency. The result has been a steady erosion of the teachers' ability to maintain order in the classroom. This addresses this problem by freeing teachers, principals, and school board members from meritless Federal lawsuits when they enforce reasonable rules.

The amendment language is very modest and narrowly tailored. The amendment only deals with Federal causes of action that might be brought against teachers or principals who act in a reasonable way to maintain order and discipline in the classroom. There is absolutely no protection for reckless or criminal misconduct.

Also, the amendment does not protect teachers when they violate State or local law. For instance, the teacher immunity provided under this amendment would not override State law towards claims such as negligence, assault, or battery as they are governed by State law.

I strongly believe school officials must be protected if we are serious about helping them maintain a school environment where teachers can teach and students can learn. I urge an aye vote on the amendment.

Mr. KILDEE. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, I rise in opposition to what is clearly a well-intended amendment that I believe will create significant confusion.

No one can dispute the need or desirability of reinforcing the notion of teachers and other school professionals that they need to maintain order in the classroom. I think the gentleman's point that there are some frivolous lawsuits is indisputable.

My concern about this amendment is that I think it fundamentally misunderstands the role of the courts versus the role of this Congress. This amendment would impose a hard and fast and rigid set of rules upon virtually every classroom situation, and do so in a way that could not foresee certain circumstances. As a result of this, I believe it would actually breed litigation.

Let me give two examples. I do not believe it is inherently obvious from

this language as to whether or not an act of slander or libel by a teacher or by a school professional is or is not actionable under this provision.

Secondly, the definition of "school" or "within the scope of employment" is a bit curious. What about a driver's education instructor who is behind the wheel of a car and negligently operates the car in the process of teaching a student how to drive?

I do not know what the answer to those cases should be, but I do know this, that this House as a legislative body is ill-equipped and ill-prepared to answer one of those questions on a case-by-case basis in advance of the incident's taking place.

I think the gentleman's intention to protect the ordinary carrying-out of school disciplinary measures is quite laudable and quite desirable, but I think the ambiguity of language in suggesting which causes of action would be preempted or excluded by this amendment and which would not, and the ambiguity of language in suggesting what the "scope of employment" means, means that this very well-intentioned attempt to avoid litigation would in fact wind up creating it.

In summary, I believe we should defeat this amendment because of those ambiguities.

Mr. BRADY of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. KELLER).

Mr. KELLER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today in strong support of the Brady amendment to add teacher liability protection to the President's No Child Left Behind Act of 2001. This is a commonsense reform that protects teachers from frivolous lawsuits when they take steps to maintain order and discipline in the classroom.

For example, imagine a scenario where we have a disruptive student, and the teacher tells him to go to the principal's office. The student says, "I am not going to do what you want. I am going to do whatever I want. You are not going to tell me what to do. I will sit here all day if I want."

Under that scenario, the teacher would probably go get another teacher and have no choice but to physically remove the child from the classroom as he was being disruptive and take him to the principal's office. Under that scenario, those same teachers could then be subjected to a frivolous suit for unlimited compensatory and punitive damages.

This is a problem that happens all too often. I think our teachers deserve better. Interviews with public school teachers reveal a common theme. It is always a small percentage of the students who cause virtually all of the problems.

Two-thirds of our public school teachers say discipline is a serious problem in the schools. Eighty-eight percent of those same teachers say aca-

demic achievement would improve substantially if the troublemakers were removed.

Teaching is a noble profession. We ask a lot of them. We pay them nothing. The least we can do is protect them from frivolous lawsuits. I urge my colleagues to vote yes on the Brady amendment.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in a letter from the National Education Association, which represents 2.6 million members in this country, they urge defeat of the Brady amendment. Just let me read from that letter.

"On behalf of the National Education Association's 2.6 million members, we urge your opposition to the Brady amendment to the ESEA reauthorization bill, H.R. 1, that would in effect remove all accountability for disciplinary actions that result in harm to the health or welfare of students."

It goes on to say, "Immunizing school boards and local education agencies will not improve discipline in the classroom." Instead, the amendment will place students at risk while undermining the focus on accountability to parents and children central to the ESEA bill. We urge your opposition to this dangerous amendment."

I would commend these words to the Members.

Mr. BRADY of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Chairman, I thank my colleague for yielding time to me and for sponsoring this amendment.

As part of our broader efforts to make schools safer, H.R. 1 provides limited civil litigation immunity from civil causes of action for teachers, principals, and other school administrators who take reasonable actions to maintain school discipline. This will allow teachers to remove violent and persistently disruptive students from the classroom without fear of legal repercussions.

The amendment before us strengthens the bill by providing teachers, administrators, and school board members immunity from State causes of action as well, and if a State does not want the immunity protections to apply, then State legislatures may in fact opt out of these provisions.

While it may seem like common sense that teachers should be able to take reasonable efforts to keep their classrooms under control, the idea of disciplining students has come under fire over the years. In light of recent school tragedies, it is even more important than ever to support teachers who take reasonable actions to maintain order and discipline.

Nearly 65 percent of public school teachers have suggested that discipline is a serious problem in their schools, and about 88 percent think that stu-

dent achievement would improve if chronic troublemakers were removed from the class.

As I noted earlier, the idea behind this provision is to make schools safer. The President's plan also includes more funding for safety and drug prevention programs, as well as after-school activities. It also requires States to report to parents on whether a school is safe, and the bill nearly triples funding for character education programs that try to instill values like honesty, respect for others, and responsibility into the curriculum.

This amendment will save schools from having to waste money on frivolous lawsuits, and ensure that taxpayers' dollars go where they should go, to the classroom, not to a bunch of lawyers.

I congratulate my colleague, and urge the adoption of the amendment.

Mr. BRADY of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. GRAVES), one of our newer Members interested in safe and orderly schools.

Mr. GRAVES. Mr. Chairman, too many teachers have told me that they are afraid to discipline unruly students for fear that they may face an expensive, career-ending lawsuit. It is time to take the lawyers out of the classroom.

Mr. Chairman, it is time to shield those responsible educators from frivolous lawsuits so our children may learn in a safe school. Responsible teachers should not be afraid of violent bullies with intimidating attorneys. Teachers should not fear a lawsuit because they attempt to break up a fight in gym class or on the playground. Teachers must be able to control the classroom to keep their students safe.

I have introduced legislation that, like this amendment, would provide legal protections to teachers who make reasonable actions to maintain order and discipline in the classroom. I rise today in strong support of this amendment that will protect our teachers and empower them to do what they were hired to do; that is, teach our students.

I would like to commend the gentleman from Texas on his great work on this amendment.

Mr. BRADY of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have passed this exact language twice through this House, Republicans and Democrats. We have protected equally from frivolous lawsuits our teachers, our principals, our educators, and our school boards. Our principals and teachers tell us that is so important, because if the school board does not back up the principals and teachers, all we have done is open a loophole for more violence, more bullying, more threats, and more harassing lawsuits.

At a time when we always fear another Columbine, the last thing we need is an open loophole, an invitation

to harassing lawsuits against the educators who need to maintain order in their classroom.

Let me close with this. Members of Congress are often asked: "What are you doing to stop school violence? What are you doing to make our schools safer?" Today we have the opportunity to answer, because today we have a clear choice, a choice between dedicated teachers and students who want to learn, or threatening, disruptive bullies and their reckless attorneys.

It is time to take the lawyers out of the classroom and to restore order and discipline so our teachers can teach, our children can learn, in truly safe schools. That is the right choice.

Mr. KILDEE. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia (Mr. SCOTT).

The CHAIRMAN pro tempore (Mr. BONILLA). The gentleman from Virginia is recognized for 4 minutes.

Mr. SCOTT. Mr. Chairman, the Senate passed an amendment similar to this, but it had a significant difference. The Senate amendment, while providing liability protection to teachers, principals, and educators as individuals, it never thought to provide immunity to school boards and local education authorities as entities.

□ 1600

Immunizing every responsible party in a school and then immunizing the school system itself, as this amendment would do, means that no one will be responsible to a parent when a child is injured by an act or an omission with regard to discipline.

This amendment would ensure that the schools would virtually never be accountable to parents regarding the discipline and safety of their children.

So, Mr. Chairman, if no one is responsible for injuries negligently inflicted upon our children, no one will have an incentive to protect children from negligent acts.

This amendment will not improve school safety and it should therefore be defeated.

Mr. KILDEE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. BONILLA). All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Texas (Mr. BRADY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. KILDEE. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas (Mr. BRADY) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 21 printed in House Report 107-69.

AMENDMENT NO. 21 OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mrs. MINK of Hawaii:

In subparagraph (A) of section 1116(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), as amended by section 106 of the bill—

(1) strike "and" at the end of clause (vii);
(2) strike period at the end of clause (viii) and insert "; and"; and
(3) add at the end the following:

"(ix) ensure that a mentoring program is available to teachers in the school who have been in the teaching profession for 3 years or less, which provides mentoring to beginning teachers from exemplary veteran teachers with expertise in the same subject matter that the beginning teachers will be teaching, to the extent practicable be school-based, and provides mentors time for activities such as coaching, observing, and assisting the teachers who are mentored."

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentlewoman from Hawaii (Mrs. MINK) and a Member opposed each will control 5 minutes.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent to claim the time in opposition not otherwise taken.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Chairman, this amendment is offered out of my very great concern that what we have established by law and what we have built upon in H.R. 1 is a formula for the determination of when schools are deemed not to be providing adequate education to the children. They are referred to in a wide variety of ways as failing schools or schools that are not performing up to the standards.

Consistent with this policy of trying to bring in accountability to the provision of Federal funds, we have provided for an additional number of tests from third grade to eighth grade, in an effort to try to maintain a steady pool of information as to whether the schools are failing or not.

There are processes developed in H.R. 1 to promote efforts that we feel would help to bring these schools up to standard and allow the children to proceed and to achieve in the basic courses of reading and literacy and in math and science.

One of the things that we have always discussed in our deliberations about failing schools is that it is the lack of resources in most cases that

compound the problems, not just the lack of funding, but the fact that they cannot attract into these schools qualified teachers. They are not connected with the Internet. They lack the assistance of various resource teachers. They do not have the textbooks. They are in remote areas which compounds the problems.

What happens in these remote areas is that there is a constant turnover of the teachers, and what we often find in my schools in the remote areas is that graduates that are just out of the colleges of education are the ones that are sent to teach in these schools that are already having a difficult time.

Mr. Chairman, these teachers fresh out of the college of education are highly motivated. They have gone through a very rigorous course of education, but when they hit the classroom itself, many of them tell me that they need assistance. That is exactly what my amendment seeks to provide. It says in the case of failing schools, there should be a mentoring program which is made available to the teachers that are assigned to these failing schools that have been teaching for 3 years or less.

The principals from 14 schools met with me recently and they identified this as one of the major benefits they want for their schools. If they had the assistance of an additional teacher or a mentor it would help to build confidence in the new teacher. The mentor could come from within the school system and would be paid an additional amount of money to provide help, support, confidence-building by going over the lesson plans to bring these teachers along.

This will contribute enormously to the retention factor, too. These young teachers assigned to the remote areas, to the failing schools are the ones who tend to leave immediately after their 3-year probation period comes about. With support instead of moving into the bigger cities where they prefer to live, they could be encouraged to stay.

Mr. Chairman, I think that this amendment will go a long way to helping the children, bringing these schools up to par, helping to retain the teachers by giving these new teachers the confidence that what they have sought in their careers is important and that we are providing this additional service because they are important.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me congratulate the gentlewoman from Hawaii (Mrs. MINK) for all of her efforts this year as we have gone through the development of the bill that we have before us.

I can tell my colleagues as a member of the negotiating team on the other side, she was a fierce advocate for the positions that she has taken for many years. I can tell my colleagues that as someone who has less experience in these areas than the gentlewoman from

Hawaii (Mrs. MINK), her service to our group was invaluable.

The amendment that she brings to us today is an important one. Under the current bill that we have before us, H.R. 1, it does require schools that have been designated as low-performing to develop a 2-year plan for how they will turn the school around.

The plan must include scientifically based research strategies, high-quality professional development, numerical goals for progress and other matters which improve the academic quality of the school.

The amendment would ensure that mentoring is made available for teachers who have been in the teaching profession for 3 years or less. I think this is a valuable addition to the plan that we have before us, and I would ask all of my colleagues to support the amendment.

Mr. Chairman, I yield back the balance of my time.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. KILDEE), my colleague who has been a member of our working group.

Mr. KILDEE. Mr. Chairman, I appreciate this display of bipartisanship also. I think for those who are concerned that Title I should perform better, this amendment would certainly help teachers, especially the newer teachers, to enhance their skills; and I urge its adoption.

Mrs. MINK of Hawaii. Mr. Chairman, I ask unanimous consent for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Hawaii (Mrs. MINK)?

There was no objection.

The CHAIRMAN pro tempore. The gentlewoman from Hawaii (Mrs. MINK) is granted an additional 1 minute.

Mrs. MINK of Hawaii. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Chairman, I want to thank the gentlewoman from Hawaii (Mrs. MINK) for presenting this amendment.

Professional development for educators is an important strength of this reauthorization act. We know that studies repeatedly show that the quality of teachers is the single most important predictor of student success.

In California, we instituted a beginner teacher support program that provides the exact kind of support proposed in this amendment. My district in San Diego County initiated such peer-teacher mentoring in the 1980s, and years of experience have shown that it does two very important things.

It makes the new teacher more effective from the first week in the classroom, and it increases retention of new teachers beyond the 5-year burnout that is a cause of our undersupply of trained teachers. And in addition, where midcareer teachers are recruited under alternative credentialing, con-

sistent on-site peer coaching is a necessity to their success.

Mr. Chairman, I urge an aye vote on this proven program. Again, I thank the gentlewoman from Hawaii (Mrs. MINK) for presenting it.

Mrs. MINK of Hawaii. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentlewoman from Hawaii (Mrs. MINK.)

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 22 printed in House Report 107-69.

AMENDMENT NO. 22 OFFERED BY MR. WAMP

Mr. WAMP. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 22 offered by Mr. WAMP:

In section 501 of the bill, strike section 5302 of the Elementary and Secondary Education Act of 1965 (as proposed to be amended by such section 501) and insert the following:

"SEC. 5302. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part \$50,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from Tennessee (Mr. WAMP) and a Member opposed each will control 5 minutes.

Mr. ETHERIDGE. Mr. Chairman, I ask unanimous consent to claim the time otherwise reserved for opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Tennessee (Mr. WAMP.)

Mr. WAMP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, character education makes a difference. Character education works because it teaches time-tested principles like honor, respect, responsibility, and courage. It teaches children to become not only future business professionals, doctors and technicians, but good citizens and decent human beings as well.

President Bush clearly recognizes the importance of values in our society and is committed to seeking a better education for our Nation's children. The President has included our character education initiative in his reform proposals.

Mr. Chairman, a valueless education is no education at all. At the foundation of all knowledge, there must exist a fundamental set of principles that distinguishes right from wrong and good from bad. As a matter of fact, academia used to believe in a value-neutral or a value-free education, and now many people in academia say that

we must have a value-based educational system so that knowledge can rest on the difference between right and wrong.

Character education is taught in all 50 States. Thirty-two States have passed legislation either mandating or encouraging the teaching of character education in school. However, some schools do not have enough money to add this important curriculum, and this amendment will give them this capability.

Mr. Speaker, I am proud to say that the character-education movement has grown out of my hometown, Chattanooga, Tennessee. Today, the Center for Youth Issues Inc., a 501(c)(3) nonprofit organization, provides materials and/or programs on character education to more than 26,000 schools nationwide and impacts more than 10 million students in all 50 States.

Since 1981, this organization, working through its school-based organizations, STARS, Students Taking a Right Stand, has found acceptance and great success in public school systems across America. My wife and I have been involved in STARS, and we really believe in its work.

Education experts know well if we teach character and build good citizens, we will not need metal detectors at school entrances, bars on the windows or other measures that are more appropriate for the penal system than for the school system.

Yesterday, I participated in a Court TV program on bullying in schools. And, frankly, this character trait of respect, if all of our students embraced it and learned it and know to respect others throughout the educational process, we would not have the youth violence problem that is surfacing in so many schools.

Congress must act to support character education. To provide that support, the gentleman from North Carolina (Mr. ETHERIDGE) and myself introduced H.R. 228, the Character Counts for the 21st Century Act.

Mr. Chairman, this is very similar to the language in H.R. 1 which will authorize the U.S. Education Department to provide grants to promote character education.

Our amendment before us today is bipartisan. The gentleman from North Carolina (Mr. ETHERIDGE) is a champion of strong public education. Character education is backed by a diverse coalition ranging from Miss America Angela Perez Baraquio to President Bush.

I laud the bill of the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, that includes \$25 million annually for character education. But by doubling it to \$50 million, we will double the number of schools that might qualify. Our amendment raises it to \$50 million per year.

There are 53 million children in our schools. Spending less than a dollar on

each child so they learn right from wrong and good from bad is the right thing to do. Much has been asked of American education, and the Congress should settle for nothing less. Improving education has become a priority of both political parties.

Mr. Chairman, I want to thank the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, and their excellent staffs.

Mr. Chairman, I reserve the balance of my time.

□ 1615

Mr. ETHERIDGE. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I want to thank the chairman of the committee and the ranking member for their support and the gentleman from Tennessee (Mr. WAMP) for working together in this bipartisan manner on this very important measure, doubling this bill's funding for character education.

Last Congress, the gentleman from Tennessee and I had the opportunity, along with 22 other Members in this body, to serve on the Speaker's Bipartisan Working Group on Youth Violence that really addressed this issue after the Columbine tragedy. This came out as one of the unanimous recommendations of that commission as a way to prevent violence among our young people.

As a former State superintendent of my State schools, I understand firsthand that character education really works. In a number of schools in my district, in Wake County, Johnston and Nash, it is providing leadership.

This amendment will build on those efforts and provide more of our young people with the education on the basic values.

Mr. Chairman, it is my pleasure to yield 1 minute to the gentleman from North Carolina (Mr. MCINTYRE), another proponent of character education.

Mr. MCINTYRE. Mr. Chairman, I rise today in support of this amendment by the gentleman from North Carolina (Mr. ETHERIDGE) and the gentleman from Tennessee (Mr. WAMP).

John Whitehead once said that "children are the living messages we send to a time that we will not see." We have to ask ourselves what kind of messages are we sending through our children. Yes, of course they need the knowledge and skills in the classroom to prepare for the global economy; however, we must remember that schools also serve as an important tool to help build citizenship.

As one who has volunteered the last 20 years in the classroom myself long before I came up here to Washington, I know that we have an opportunity, a golden one, to work with our teachers and educators to help our children. Children spend about 1,500 hours a year in front of the television, 900 hours a year in school.

This is a golden opportunity for us to help develop good character and sup-

port what our schools can do to help our children. Character is developed over time by teaching by example, by learning, and by practice. It is developed through character education.

I strongly support this amendment and urge all my colleagues to do so.

Mr. ETHERIDGE. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. ROSS).

Mr. ROSS. Mr. Chairman, I stand here before my colleagues today as the proud son of public school educators, as the father of two children growing up in the Prescott public schools back in my hometown. I stand here in support of character education.

I have talked a lot about safer schools and smaller class sizes, about the need to put respect for teachers and discipline back into the classroom; and, yes, I have talked a lot about the need for more character education. We must focus more through character education on things like respect and citizenship. I think we need to get back to some of the basics in education. We need to teach our children. We must strive for them to do academically, but we must also strive to help them become good citizens and future leaders for all of us.

I am pleased to stand here today in support of this bipartisan amendment. I hope it demonstrates that a lot of us are truly trying to put our children and are truly trying to put progress before partisanship.

Mr. ETHERIDGE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me close for our side on this debate by saying that this House has a chance to make character education work all across America. It works in those schools that we now have it in because it teaches our children to view the world through a moral lens and to understand that their actions really do have consequences.

Character education works to improve order, discipline and the respect in our classroom, and to reduce the incidence of violence. The research we have done in North Carolina for schools that have it, violence goes down and academics go up.

It teaches children to become not only successful children and students, but also good citizens and decent human beings as well. We must not only educate our children's minds, but their hearts as well.

I believe if we can seize this moment and provide a national commitment to character education for our children, then we will not need metal detectors, bars on the windows, or other punitive measures that are more appropriate for a penal system than for our school system.

Mr. Chairman, I encourage my colleagues to vote yes on the Wamp-Etheridge amendment.

Mr. WAMP. Mr. Chairman, I yield the balance of the time to the gentleman from Ohio (Mr. BOEHNER), the distinguished chairman of the Committee on

Education and the Workforce and a man who has come up with an excellent work product in this bill.

Mr. BOEHNER. Mr. Chairman, I thank the gentleman from Tennessee for yielding me this time.

Mr. Chairman, I thank both the gentleman from Tennessee (Mr. WAMP) and the gentleman from North Carolina (Mr. ETHERIDGE) and others for supporting this because I do think that character education is a valuable effort that needs to happen in our schools.

When we grew up, we had two parents at home by and large teaching us character, teaching us the valuable lessons that we needed to be good citizens, to be good students, and to respect one another. All of those values were reinforced in the schools that we went to.

But today, unfortunately, we do not have mom and dad both at home raising their children. We have a different society than we had when many of us grew up. For a lot of children, especially children in poorer school districts, they may never see their parents.

The kind of values that we are talking about and the kind of character education that this plan would call for I think has to happen, because if we do not intercept these children in school and help them develop these values, they will never develop those values because they are not being reinforced at home like when we were all growing up.

It is a good amendment. We ought to vote for it.

The CHAIRMAN pro tempore (Mr. BONILLA). The question is on the amendment offered by the gentleman from Tennessee (Mr. WAMP).

The amendment was agreed to.

The CHAIRMAN pro tempore. The Chair understands that amendment No. 23 will not be offered. Therefore, it is now in order to consider amendment No. 24 printed in House Report 107-69.

AMENDMENT NO. 24 OFFERED BY MR. HILLEARY

Mr. HILLEARY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 24 offered by Mr. HILLEARY:

After part A of title IX of the bill, insert the following (and redesignate provisions accordingly):

PART B—EQUAL ACCESS TO PUBLIC SCHOOL FACILITIES

SEC. 921. SHORT TITLE.

This part may be cited as the "Boy Scouts of America Equal Access Act".

SEC. 922. EQUAL ACCESS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no funds made available through the Department of Education shall be provided to any public elementary school, public secondary school, local educational agency, or State educational agency, if the school or a school served by the agency—

(1) has a designated open forum; and

(2) denies equal access or a fair opportunity to meet to, or discriminates against,

tunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibit the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

(b) TERMINATION OF ASSISTANCE AND OTHER ACTION.—

(1) DEPARTMENTAL ACTION.—The Secretary is authorized and directed to effectuate subsection (a) by issuing, and securing compliance with, rules or orders with respect to a public school or agency that receives funds made available through the Department of Education and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (a).

(2) PROCEDURE.—The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), in a manner consistent with the procedure used by a Federal department or agency under section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1).

(3) JUDICIAL REVIEW.—Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 603 of that Act (42 U.S.C. 2000d-2). Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 603 of that Act.

(c) DEFINITIONS AND RULE.—

(1) DEFINITIONS.—In this section:

(A) ELEMENTARY SCHOOL; LOCAL EDUCATIONAL AGENCY; SECONDARY SCHOOL; STATE EDUCATIONAL AGENCY.—The terms "elementary school", "local educational agency", "secondary school", and "State educational agency" have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (as in effect after the effective date of this Act).

(B) SECRETARY.—The term "Secretary" means the Secretary of Education, acting through the Assistant Secretary for Civil Rights of the Department of Education.

(C) YOUTH GROUP.—The term "youth group" means any group or organization intended to serve young people under the age of 21.

(2) RULE.—For purposes of this section, an elementary school or secondary school has a designated open forum whenever the school involved grants an offering to or opportunity for 1 or more youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

SEC. 923. EFFECTIVE DATE.

Notwithstanding section 5, this part takes effect 1 day after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from Tennessee (Mr. HILLEARY) and the gentlewoman from California (Ms. WOOLSEY) each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. HILLEARY).

Mr. HILLEARY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am proud to be before this House today with an amendment in support of one of our most revered institutions, the Boy Scouts of America. I find it interesting that this amendment comes immediately after

the previous amendment regarding character education, because the Boy Scouts of America have been in the business of character education for many, many years.

My amendment is very simple. It states that, if a school allows groups open access to its facilities, it must allow equal access to the Boy Scouts. All over the country the Boy Scouts are under attack and being thrown out of public facilities that are open to other similarly situated groups. From Florida to California, the Boy Scouts are being removed, not because they support an illegal right, but as retribution for the Supreme Court's ruling in the Boy Scouts of America versus Dale.

The Boy Scouts won this case, but they have repeatedly once again defended this right in court. Thus far, the courts upheld the Boy Scouts' first amendment rights in assembly and speech and overturn their removal from public meetings areas such as schools. However, more and more schools continue to act, and the Scouts repeatedly have to get an injunction in court.

This amendment is designed to stop this wasteful cycle in litigation and harassment. If one allows for an open forum for other groups to meet, it is only fair to allow equal access to the Boy Scouts.

I urge my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

(Ms. WOOLSEY asked and was given permission to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Chairman, my objection is not because I object to the Boy Scouts. My objection is to intolerance. Since the Boy Scouts of America fought all the way to the Supreme Court for the right to discriminate, school districts, county governments, businesses and charitable groups like the United Way chapters have been breaking their ties with the Boy Scouts of America.

This effort to stand up to the Boy Scouts' discriminatory policy is not a fringe movement; it is part of the mainstream belief that intolerance in any form is un-American.

It is amazing to me that the proponents of this amendment support intolerance by revoking Federal funds unless a school or school district supports discriminatory policy and at the same time would take local control away from a school or a school district.

Whether one agrees with the Boy Scouts or not, anyone who believes that local communities should have local control over their own schools will surely want to vote against this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HILLEARY. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would just say that this is not unprecedented, this sanction

in this amendment. We do this also with regard to school prayer. We do it with regard to military recruiters if schools decide to discriminate against the military and not allow them in. This sanction is not without precedence.

Mr. Chairman, I yield 1½ minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the important amendment of the gentleman from Tennessee (Mr. HILLEARY) to protect the freedom of association of the Boy Scouts of America that is inherent in the Constitution of the United States of America.

Mr. Chairman, it is a sad, sad day in this country when the Boy Scouts of America, an institution recognized as a pillar of moral strength, is increasingly denied access to school facilities based on its membership or leadership criteria.

Mr. Chairman, in an era where the headlines have been graced with atrocious incidents of kids killing kids, the rise of drugs and violence in our schools, it is shocking that this Congress would stand by those who point to the Boy Scouts and order them out of our schools.

High school students in the State of Indiana can be asked to watch MTV programs to fulfill a course requirement, but the prospect of allowing the Boy Scouts of America to meet in the same building is somehow offensive to the Constitution of this great land.

The Boy Scouts of America is a model of integrity, strong ethics, devotion to God and the public good. Closing school doors to them is at minimum misguided, and at the most it is extremism.

The Founders of this Nation fought for one Nation under God. The phrase "In God we trust," Mr. Chairman, graces the walls of this very Chamber as testimony to this historic truth. Let us in this place by this amendment make it possible for the next generation of Americans to embrace those same timeless values.

Ms. WOOLSEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to comment that, if those words are believed by the gentleman from Indiana (Mr. PENCE) on the other side of the aisle, then it would make sense that all boys, not just some boys can be members of Scouting.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, let us be clear. This amendment does nothing, nothing for the Boy Scouts. They are already well protected, not by some statute, but by the Constitution. That constitutional principle is already well established.

Under the first amendment, they cannot be denied for the use of any public forum that is made available to other groups. For example, back in 1968, a Federal Court of Appeals upheld the right of the Ku Klux Klan to use a high school gym for a Klan meeting. In this past March, a Federal District Court applied the same principle to the Boy Scouts when a school board in Florida attempted to deny them the use of school facilities. So my colleagues do not have to worry about the Boy Scouts. They are well protected now.

The reality is that this amendment is not about the Boy Scouts. It is about a conservative social agenda that holds passionate views about sexual orientation. The Boy Scouts' policy on sexual orientation is well known. That is fine. The gentleman is entitled to his views, and the Boy Scouts' are entitled to their views. But they ought not to be entitled to use the Congress of the United States to make a political statement that promotes intolerance and discrimination.

Vote no on the Hilleary amendment.

□ 1630

Mr. HILLEARY. Mr. Chairman, I yield 1½ minutes to the gentleman from Colorado (Mr. SCHAFFER).

Mr. SCHAFFER. Mr. Chairman, I thank the gentleman for yielding me this time.

During the last series of votes, 68 Republicans voted against the President on the most important provision of his Leave No Child Behind plan, and that was the portion that would have allowed students to be educated in private institutions if their public institution had failed them. That is unfortunate, because that was the heart of the bill.

And since we are not going to allow students to go to private institutions, it makes perfect sense that we should now adopt this amendment to at least allow the private institutions to come into the schools and help educate children. In this case, we are talking about the Boy Scouts of America, which, as we just heard from the previous speaker, there are some here in Washington who are willing to associate the word "intolerance" with the Boy Scouts of America, which, of course, is just absurd.

The Boy Scouts of America are anything but that. They are extremely tolerant and extremely open and they are a fine organization that has a long history in helping to provide guidance and support and education to the young boys of America who will ultimately become some of America's best leaders, many of whom serve right here in the United States House of Representatives and over across the Capitol.

Mr. Chairman, this amendment is an important one, because it does really level the playing field and it speaks specifically to an organization that deserves our support here in the Congress, and one that has been the target

of an unfortunate and pernicious kind of discrimination. This amendment is very much consistent with the President's plan. Consistent amendments to the President's plan have been kind of in short supply this afternoon, but this is one I think we can wholeheartedly endorse, and I hope the House does.

The CHAIRMAN pro tempore (Mr. BONILLA). The Chair advises that the gentleman from Tennessee (Mr. HILLEARY) has 15 seconds remaining and the gentlewoman from California (Ms. WOOLSEY) has 1½ minutes remaining.

Ms. WOOLSEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, let me just say first that the Boy Scouts, I think, reflect the standards, of course, that we hope for in terms of all young men in our country, and so that is why I believe that this amendment would be dangerous in terms of restricting the use of Federal funds from schools and school districts that choose to stand against the Boy Scouts' discriminatory policies.

Now, this amendment is really unnecessary. It is an unwarranted intrusion into a local school district's ability to set standards for the use of their own facilities. I am very concerned that Congress would eliminate vital funds for our children's schools simply because their school system stands up against discrimination. It also bestows upon the Boy Scouts and other youth groups unique rights that are not available to other student-led groups.

The first amendment already guarantees the Boy Scouts the right to use any school or public facility to the same extent and in the same manner as any other group allowed to use those facilities. So the Hilleary amendment will transform these schools into open forums requiring them to allow anti-gay groups to use school premises regardless of a local school board's decision on the matter. So I urge a "no" vote on this amendment.

Mr. HILLEARY. Mr. Chairman, I yield myself the balance of my time and finish by saying that the Boy Scouts are not protected. They are the target of many, many votes of harassment, in my view, and this is simply to point out they should not have to use their precious resources to claim their constitutional rights in court, nor should the school systems have to use up their precious resources defending against the Boy Scouts in court. This just sets it right for them, and I urge all my colleagues to vote for this amendment.

Ms. WOOLSEY. Mr. Chairman, I yield myself the balance of my time and, in closing, I would like to point out I have a letter before me that has been signed by 22 organizations, such as the National PTA, the National School Boards Association, the National Association of Secondary School Principals, and the National Rural Education Association, among many others.

Mr. Chairman, we should vote against this because it is not necessary in the first place, but a vote against this amendment would be a vote telling our children that all children are important, not just some children.

Mr. Chairman, the letter I referred to earlier is submitted for the RECORD as follows:

May 22, 2001.

DEAR REPRESENTATIVE: We are writing today to urge you to reject the "Boy Scouts of America Equal Access Act" which was offered as an amendment to the Leave No Child Left Behind Act of 2001 (H.R. 1). This amendment would deny all Federal education funding to any school district or state education agency that has been found to "discriminate" against the Boy Scouts of America, or any other youth group that denies membership to gays and lesbians.

The Hilleary amendment is an unnecessary, unwarranted intrusion into a local school district's ability to set standards for the use of their own facilities, and bestows upon the Boy Scouts and other youth groups unique rights that are not available to student-led groups.

The amendment is unnecessary because the First Amendment already guarantees the Boy Scouts the right to use public school facilities, to the same extent and in the same manner as any other group allowed to use those facilities.

At the same time, the amendment is an unwarranted intrusion into the decision-making of local school boards because it mandates the creation of an "open forum" any time a school lets one community group use their facilities. The Hilleary amendment decrees that such an action transforms the school into an "open forum," therefore requiring the institution to allow the Boy Scouts and any other anti-gay youth group to use school facilities or premises—regardless of the school's intention or the local school board's decisions on the matter.

We, the undersigned organizations, strongly urge you to oppose this amendment. If you have any questions or require additional information, please contact Nancy Zirkin, Director of Public Policy and Government Relations—American Association of University Women (AAUW) or Jamie Pueschel, Government Relations Manager—AAUW.

Sincerely,

American Association of School Administrators
American Association of University Women
American Counseling Association
American Federation of State, County and Municipal Employees, AFL-CIO
American Federation of Teachers
American Psychological Association
Americans for Democratic Action
Anti-Defamation League
Council of the Great City Schools
Council of Chief State School Officers
Leadership Conference on Civil Rights
Myra Sadker Advocates
National Association of Black School Educators
National Association of School Psychologists
National Association of Secondary School Principals
National Association of Social Workers
National Association of Girls and Women in Sport
National Council of Jewish Women
National Council of La Raza
National Education Association
National Federation of Filipino American Associations
National PTA
National Rural Education Association

National School Boards Association
 National Women's Law Center
 New York City Board of Education
 New York State Education Department
 NOW Legal Defense and Education Fund
 People For the American Way
 School Social Work Association of America
 Unitarian Universalist Association of Con-
 gregations
 United Church of Christ Justice and Witness
 Ministries

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Tennessee (Mr. HILLEARY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 25 printed in House Report 107-69.

AMENDMENT NO. 25 OFFERED BY MS. VELÁZQUEZ
 Ms. VELÁZQUEZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 25 offered by Ms. Velázquez:

In section 501 of the bill, in section 5123(h) of the Elementary and Secondary Education Act of 1965 (as proposed to be amended by such section 501), insert after paragraph (2) the following:

“(3) IN-KIND CONTRIBUTIONS.—Each State that requires an eligible entity to match funds under this subsection shall permit such entity to provide all or any portion of such match in the form of in-kind contributions.

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

Mr. BOEHNER. Mr. Chairman, I ask unanimous consent to take the time in opposition, since no one is here to take it.

The CHAIRMAN pro tempore. Without objection, the gentleman from Ohio (Mr. BOEHNER) will control the 5 minutes in opposition.

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

First and foremost, Mr. Chairman, I would like to recognize the chairman, the gentleman from Ohio (Mr. BOEHNER), and the ranking member, the gentleman from California (Mr. GEORGE MILLER), as well as the members of the Committee on Education and the Workforce for all their hard work on the bill we have before us today.

The amendment I am offering will make it easier for needy schools to obtain 21st Century Community Learning Grants. 21st Century Community Learning Grants provide funding to schools in disadvantaged communities that, in collaboration with other public and non-profit agencies and organizations, run before- and after-school programs designed to improve academic achievement. The services they provide

include tutoring, technology training, expanded library services, arts and music education, recreational activities, and programs to promote parental involvement and prevent drug use and violence.

These services can mean all the difference to a struggling student or a failing school. However, H.R. 1, as currently drafted, permits States to require grant recipients to provide matching funds equal to the amount of grant. Although the bill also requires States that choose to implement such a matching requirement, to do so on a sliding fee scale, this still is a burdensome requirement on prospective grantees that lack access to fund, the same prospective grantees that are most in need of 21st Century Community Learning Programs.

By only allowing monetary contributions to be used to meet the matching requirements, we eliminate many neighborhoods from eligibility and we underestimate the value of in-kind contributions. These centers serve some of our poorest communities, and this language has the potential to cripple plans for those schools located in States with matching requirements. Obviously, this is a risk we cannot afford.

My amendment will make it easier for the neediest grantees to put together competitive applications by allowing them to count in-kind contributions toward a matching requirement. Although many grantees in disadvantaged communities lack access to funds, they do not lack access to resources. By allowing grantees to count in-kind services, such as volunteer time and donated equipment, we will not only be providing an opportunity to a needy school, we will also be encouraging investment and support from the surrounding community.

I hope my colleagues will support this amendment's efforts to eliminate obstacles to much-needed funding for disadvantaged schools and communities. Let us give all students the tools they need to strive for excellence. Let us make sure no child is left behind.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me thank the gentlewoman from New York for her contribution to this bill. As we all know, the 21st Century Community Learning Center Program is one that does, in fact, require a local match. For some smaller communities or some faith-based or community-based programs, their ability to come up with the matching funds to do these programs is somewhat limited.

I do think that allowing in-kind services as part of the match does provide more flexibility for these programs at the local level. It is a very good amendment, and I am happy to support it.

Mr. Chairman, I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 26 printed in House Report 107-69.

AMENDMENT NO. 26 OFFERED BY MR. KIRK

Mr. KIRK. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 26 offered by Mr. KIRK:

At the end of title VI of the bill, add the following:

SEC. 607. SENSE OF CONGRESS RELATING TO FULL FUNDING OF THE IMPACT AID PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) More than 90 percent of resources for school districts in the United States are raised from State and local property taxes.

(2) School districts that are affected by the presence of the Federal government, such as Federal property that is not subject to taxation, must still provide educational services to children who are federally connected by such activities of the Federal government.

(3) To mitigate this loss of funding, Congress has made “impact aid” payments to local educational agencies to reimburse the agencies for the costs of educating federally connected children.

(4) From 1950 to 1969, Congress provided full funding for the impact aid program to help defray the costs of educating federally connected children.

(5) For fiscal year 2000, Congress provided only 46 percent of the costs of educating federally connected children.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the House of Representatives, Senate, and Administration should work together to provide full funding for the impact aid program in future fiscal years in order to meet the needs of school districts affected by a Federal presence; and

(2) the full funding of the impact aid program will ensure that federally connected children will continue to receive a quality education.

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from Illinois (Mr. KIRK) and a member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois (Mr. KIRK).

Mr. KIRK. Mr. Chairman, I yield myself 1 minute.

(Mr. KIRK asked and was given permission to revise and extend his remarks.)

Mr. KIRK. Mr. Chairman, this amendment is about Impact Aid. If we are concerned about military pay, if we are concerned about military housing, if we are concerned about military health care, we also need to be concerned about the children of military personnel. That is why we support Impact Aid.

The average school district in America, the \$10 million school district, gets \$9 million from local resources and

only \$1 million from the Federal Government. But what happens if we cannot tax that housing? In many military districts, Indian reservations, and other facilities, kids flood into the school districts, but we have no dollars attached. The Impact Aid program makes up the difference, but it has made up the difference in an inadequate way.

From 1950 to 1969, the Federal Government fully funded the Impact Aid program, but now only 46 percent of the needs of military kids and other kids are met. This amendment is the start of a process where we will build consensus behind the Impact Aid program. For us, we make a statement today that the needs of military kids and other kids must be met by fully funding Federal Impact Aid.

Mr. Chairman, I reserve the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, I ask unanimous consent to claim the time in opposition, even though I am actually in support of this measure.

The CHAIRMAN pro tempore. Without objection, the gentlewoman from California (Mrs. DAVIS) will control the 5 minutes.

There was no objection.

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Impact Aid is a program that is over 50 years old, yet for the last 30 years Congress has failed to fund the program fully. This program is designed to offset the losses school districts suffer in property taxes when Federal lands reduce their tax rolls but provide many children to be educated. This funding is critical to balance the local school district income so that the educational programs for all the students of the affected district is not diminished.

The issue, Mr. Chairman, is one of fairness. The level at which Impact Aid is currently funded does not begin to offset the costs for educating a child. Generations of military families have been based in San Diego and Coronado in my district, and developments of federally-owned housing are home to children throughout the area. We are very proud of the opportunity to serve the children of our military forces. Congress should be equally proud of providing the full funding that it promised half a century ago.

Mr. Chairman, I also want to thank the gentleman from Illinois (Mr. KIRK) for bringing this forward.

Mr. Chairman, I reserve the balance of my time.

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. LARSEN), my Democratic colleague and partner in this effort.

Mr. LARSEN of Washington. Mr. Chairman, I thank the gentleman for yielding me this time and for bringing this important issue to the attention of Congress.

Mr. Chairman, just last month I attended a ceremony, a welcome home

ceremony in Oak Harbor, Washington, in my district; a welcome home ceremony for the 24 crew members of the plane that was downed in China. Oak Harbor has been the home of Naval Air Station Whidbey Island for many years, and 7,000 people turned out for this homecoming event, showing the commitment that the town of Oak Harbor has made to the presence of Naval Air Station Whidbey in my district.

This amendment today, Mr. Chairman, would express the sense of Congress that the Federal Government must recognize that commitment, must recognize the sacrifice that communities all over our country are making. This sense of Congress amendment would say that the Impact Aid program should have guaranteed funding for districts that so desperately need it.

□ 1645

Whether it is Oak Harbor or Marysville, which is the home to the Tulalip Indian Reservation, these communities depend heavily upon funding; and I ask this body to support this amendment.

Mrs. DAVIS of California. Mr. Chairman, I yield 1½ minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Chairman, I rise today in strong support of this amendment offered by the gentleman from Illinois (Mr. KIRK) and the gentleman from Washington (Mr. LARSEN) to fully fund Impact Aid. I am proud to join them in this amendment and I commend these two freshman Members for their initiative and commitment to education for their constituencies.

While many of us know Impact Aid is the Federal Government assistance program to local school districts where there is a large Federal presence, many of my colleagues may not know what Impact Aid means to cities such as New York City, my home city.

\$5.8 million goes to New York City annually in Impact Aid funding to help improve the quality of education for over 70,000 children who live in public housing. As representative of the largest public housing complex in the U.S. and of thousands of working New York families who make minimum wage and send their children to public schools, full funding for Impact Aid is critical to make sure that America provides educational opportunities to all of our children, no matter where they live and no matter what their income level is.

While I thank the Committee on Education and the Workforce for recognizing the importance of Impact Aid to communities throughout the country, there is more that can be done. Last year \$900 million was allocated for Impact Aid when the true need is closer to \$1.5 billion.

Mr. Chairman, I urge my colleagues to adopt this amendment and urge my colleagues to fight for full funding of Impact Aid in conference with the Senate.

Mr. KIRK. Mr. Chairman, I yield 1 minute to the gentlewoman from New

York (Mrs. KELLY) representing West Point.

(Mrs. KELLY asked and was given permission to revise and extend her remarks.)

Mrs. KELLY. Mr. Chairman, I rise today in strong support of the Kirk-Larsen amendment expressing the sense of Congress that Impact Aid programs should be fully funded.

I join my colleagues in their efforts to ensure that children in federally impacted school districts receive quality education. Like many of my colleagues, I represent a highly impacted, actually the most highly impacted school district in the United States of America. Adjacent to West Point, the Highland Falls-Fort Montgomery School District exists between Federal land, State land, and the Hudson River. This unique positioning means that over 90 percent of the land in the school district is nontaxable. Without Impact Aid, this school district is unable to raise the revenue necessary to educate its students.

The increase in funding for section 8002, which applies to land-impacted districts, has helped the Highland Falls-Fort Montgomery School District undertake capital improvements, hire new teachers, tutors, and reinstate the college advanced placement courses which they had to cut.

However, this section and the entire Impact Aid program is still not fully funded. As we continue to debate improvements to our children's education, we absolutely must not forget those military children sitting in classrooms in federally impacted school districts. We rely on Impact Aid funds for a quality education. Support the Kirk amendment and support full funding for Impact Aid.

Mr. Chairman, I rise today in strong support of the Kirk-Larsen amendment expressing the sense of Congress that the Impact Aid Program should be fully funded.

I join my colleagues in their efforts to ensure that children in federally impacted school districts receive a quality education.

Created in 1950, the Impact Aid Program addresses the increased burden felt by school districts that host military children or have nontaxable federal lands.

On behalf of the 1,500 school districts and 1.5 million federally connected students across the country who rely upon the Impact Aid funds for a good education, I urge all my colleagues to join me in supporting this amendment.

The Impact Aid program is equally important to an additional 17.5 million children whose education is linked to the eligibility of their school, or their classmates, to receive Impact Aid funding.

Like many of my colleagues, I represent the most highly impacted school district in the U.S. that relies upon the Impact Aid Program.

Adjacent to West Point, the Highland Falls-Fort Montgomery School District, in Orange County, NY exists between federal land, state land, and the Hudson River.

This unique positioning means that over 90 percent of the land in the school district is non-taxable.

Without Impact Aid, this school district is unable to raise the revenue necessary to educate its students.

The increase in funding for Section 8002, which applies to land impacted districts, has helped the Highland Falls-Fort Montgomery School District undertake capital improvements, such as hiring new teachers, tutors and reinstating College Advanced Placement courses.

This is quite a contrast to prior years when they were faced with the possibility of closing their doors.

However, this section and the entire Impact Aid Program is still not fully funded.

As we continue to debate improvements to our children's education, we must not forget those military children sitting in classrooms in federally impacted school districts.

We rely on Impact Aid funds for a quality education.

Support the Kirk amendment and support full funding of the Impact Aid Program.

Mrs. DAVIS of California. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Chairman, I rise today in support of the Kirk amendment which expresses the sense of Congress that the Impact Aid program should be fully funded. Fully funding the Impact Aid program will greatly help the vast numbers of local school districts which have lost tax revenue as a result of a large Federal presence in their district.

This especially holds true of my congressional district in New Mexico which has a large number of schools which depend on Impact Aid funding and who educate a large number of Native American students.

The last time this program was fully funded was 1950 through 1969. Since that time, the funding levels for Impact Aid have not kept up with the amount required to cover the Federal Government's obligation to this program.

Mr. Chairman, I cannot stress how important this program is to the more than 1,500 school districts and 1.5 million children across the country who depend on this program for a quality education. I urge all of my colleagues to support this amendment.

Mr. KIRK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I agree with everything that the gentleman said, except that I think it should be called the Kirk, Larsen, Davis, Udall, Crowley, Hayworth, Kelly, Edwards and Hayes amendment.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. BOEHNER), chairman of the committee.

Mr. BOEHNER. Mr. Chairman, I want to thank the gentleman from Illinois for bringing this sense of Congress to the floor today.

Mr. Chairman, as a Member who does not have Impact Aid in my district, when I came to Congress, I was wondering what is this and why do we do it. Over the years, Members who have large military and civilian Federal employee impact in their district, do in

fact receive funds because we do not as the Federal Government pay taxes in those communities.

I want to congratulate the gentleman from Illinois for bringing this resolution here. I think in the few months he has been here he has done a great job in making sure I am fully aware of how important Impact Aid is to his district and how important it is to other Members' districts. It is a good resolution. We ought to push the appropriators, including Mr. Chairman, that we should in fact fully be funding Impact Aid.

Mr. KIRK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to conclude on this amendment, I want to salute the bipartisan leadership on this. We have an equal number of Democrats and Republicans concerned.

Under the Constitution, the number one mission of our government is national security; but I think education also comes as a top priority, and it is the education of military kids, Indian kids, and kids coming off of Federal property that is a key Federal responsibility.

We have fallen behind, Mr. Chairman. We used to fully fund this program. We now only fund 46 percent. So by adopting this amendment, I think we can unscore the achievement and begin the consensus building that we need to fully fund the needs of military, Indian and other related kids for Impact Aid.

Mr. Chairman, the children of military families are the most likely to be joining the military in the future. So for our country's own national defense, making sure that quality education is available on or near military, Indian reservations, and other Federal facilities is critical. I urge adoption of the amendment.

Mr. Chairman, I yield back the balance of my time.

Mrs. DAVIS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been a pleasure for me to join with the gentleman from Illinois (Mr. KIRK) and our colleagues on both sides of the aisle on this issue. As a school board member in San Diego from 1983 to 1992, I felt like we were always going to lobby on behalf of these students. We always had to make a case for these students. It does not seem right that we had to make a case for the children of the families who were fighting for this Nation's security.

Mr. Chairman, I am very pleased that we are working together on this today, and I certainly hope all of my colleagues will join us on a strong "aye" vote.

Mr. HAYES. Mr. Chairman, Impact Aid is a crucial element of the basic financial support for schools in my Congressional District in North Carolina. Just as local taxes support other school districts, Impact Aid bridges the gap in counties where the Federal Government is a major landowner. In some cases, Impact Aid supplies a significant portion of school districts' operating budgets.

As one of the over 150 members of the Impact Aid Coalition, one of the largest bipartisan coalitions in Congress, we have worked together to support our local school systems. Full funding for this program will fulfill the federal government's commitment not only to our local school systems but the families of our military men and women and those citizens who are affected by Federal properties. I will continue to work with the appropriators for full funding for this crucial education program and I commend my colleague from Illinois for continuing to support this program.

Mr. SHROCK. Mr. Chairman, I rise today in support of this amendment which recognizes the importance of Impact Aid. In the Commonwealth of Virginia, over 60,000 students of military families attend federally impacted schools. Their parents make many sacrifices to support our national defense. We must provide these students with the quality education that they deserve. By making the Impact Aid an entitlement, the Federal Government will once again become a full partner with the taxpayers in federally connected districts as they, together, provide the revenue needed to deliver a free public education not only military to dependent students, Native American students and other eligible students, but to all students enrolled in federally connected school districts. I urge each Member of Congress to recognize its intent by supporting this bipartisan effort to fully fund the Impact Aid Program.

Mrs. DAVIS of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. BONILLA). All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Illinois (Mr. KIRK).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. KIRK. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois (Mr. KIRK) will be postponed.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 27 printed in House Report 107-69.

AMENDMENT NO. 27 OFFERED BY MR. HOEFFEL

Mr. HOEFFEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 27 offered by Mr. HOEFFEL:

In section 5214(b)(1) of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 501 of the bill, add at the end the following: "Such a description may include how the applicant will provide release time for teachers (which may include the provision of a substitute teacher)."

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from Pennsylvania (Mr. HOEFFEL) and a Member opposed each will control 5 minutes.

Mr. BOEHNER. Mr. Chairman, although I do not oppose the amendment, I ask unanimous consent to claim the time in opposition.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. HOFFFEL).

Mr. HOFFFEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) for their support for my amendment.

This amendment would add new flexibility to the Federal funds provided in this bill in the enhancing education through technology program to clarify that our school districts on their own initiative can use these funds to provide for the associated cost of leave time so that teachers can be trained in technology.

When I was first elected, Mr. Chairman, I wanted to make sure I knew as much about the public schools in my district as I could. I wanted to hear from the educators in my district about their needs. I sent out a survey to each of the school districts. I started and continue to hold regular education round tables open to parents and teachers, principals and superintendents. I learned a lot about my district and the schools in my district. They obviously put a high priority on educating children, and they want to use the highest and best technology.

I represent a suburban district. We are fortunate to have the resources so that most of my school districts have a good amount of hardware, of computers and so forth, so they are able to provide computers for teachers and students. But I discovered that the biggest problem in my district was getting the teachers trained on technology and to keep them up to date on technology.

Mr. Chairman, the training courses are available to the teachers, but it is difficult in many cases for the school districts to make the time to get teachers out of the classroom in order to be trained.

This amendment would make it clear that school districts can use this Federal money as part of their application for funding under the enhancing education through technology program to apply for leave time and other associated costs to make sure they can get their teachers out of the classroom on a regular basis as they see fit at the local level to keep them trained and updated on technology.

This amendment will go a long way to help the professional development of teachers. While in this bill we are determined to leave no child behind, let us make sure we leave no teacher behind as well. I ask my colleagues to support this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BOEHNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me thank the gentleman from Pennsylvania for his con-

tribution on the technology assistance for local schools. The amendment brought to us by the gentleman from Pennsylvania (Mr. HOFFFEL) would increase local flexibility for how they can use the technology money. I think it is a valuable addition, and urge Members to adopt it.

Mr. Chairman, I yield back the balance of my time.

Mr. HOFFFEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from Ohio (Mr. BOEHNER) for his leadership and his support on this particular bill and his hard work in the committee to bring forward this excellent bill. I thank again the gentleman from California (Mr. GEORGE MILLER), the ranking member.

Mr. HONDA. Mr. Chairman, I rise today in support of the Hoeffel Amendment because I believe that in order for schools to perform at 21st century levels, we must provide them with 21st century technology and training.

Our teachers and administrators must be better trained if we are to maximize the use of computers and the Internet in schools. The Hoeffel Amendment will ensure that while classroom teachers seek out advanced technology training that their districts will support them. This amendment truly reflects our willingness to put our money where our mouth is. This amendment says we support our teachers.

Through my experience as a high school teacher and principal, I know that high achievement is dependent upon the learning environment. That means up-to-date, safe buildings, high quality teachers, and goods tools to promote learning.

We need to work with teachers and high tech businesses to integrate technology into classroom curriculum. We also need to encourage high tech businesses to lend their employees to our schools in order to ensure the most up-to-date technology skills.

I urge my colleagues to support the Hoeffel Amendment.

Mr. HOFFFEL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Pennsylvania (Mr. HOFFFEL).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 28 printed in House Report 107-69.

AMENDMENT NO. 28 OFFERED BY MR. COX

Mr. COX. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 28 offered by Mr. COX:

In part E of title VIII of the Elementary and Secondary Education Act of 1965, as proposed to be amended by section 801 of the bill—

(1) redesignate section 8520 as section 8521 (and correct any cross-references accordingly); and

(2) insert after section 8519 the following:

“SEC. 8520. AGGREGATE INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2002 EQUAL TO 11.5 PERCENT.

“Notwithstanding any other provision of this Act—

“(1) for fiscal year 2002, the aggregate amount of funds authorized to be appropriated under this Act shall be \$20,528,782,360 (representing an increase of 11.5 percent over the aggregate amount appropriated for programs under this Act for fiscal year 2001); and

“(2) for each subsequent fiscal year covered by this Act, the aggregate amount of funds authorized to be appropriated under this Act shall be the amount appropriated for the preceding fiscal year, increased by 3.5 percent.

The CHAIRMAN pro tempore. Pursuant to House Resolution 143, the gentleman from California (Mr. COX) and the gentleman from Michigan (Mr. KILDEE) each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. COX).

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the purpose of this amendment is to more closely conform the spending levels in H.R. 1 to the budget that has been adopted by the Congress and by this House and to the budget that has been submitted to us by the President.

□ 1700

In their letter of support for this legislation, the administration, on May 15, 2001, wrote as follows: “The administration supports House passage of H.R. 1, which reflects the themes of no child left behind, the President’s comprehensive proposal to reform the Elementary and Secondary Education Act of 1965.

“The administration urges the House to refine the committee bill; to maintain fiscal discipline. The bill,” the administration says, “contains excessive appropriation authorization levels.”

Here is what the letter says specifically about that: “The total appropriation,” according to the Office of Management and Budget, “contained in H.R. 1 as reported exceeds the President’s total request by over nearly \$5 billion for fiscal year 2002. The administration has produced a responsible budget that includes significant increases for key education programs, while also maintaining fiscal discipline government-wide. The administration urges the House to pass a bill that is closely aligned with the President’s budget.”

This amendment will implement President George W. Bush’s commitment to an 11.5 percent increase in funding for education. This amendment provides that the total of all the funding increases in this bill, in the first year, will represent an 11.5 percent increase over fiscal year 2001.

This is a rate of growth proposed for all Department of Education programs by the President. In fact, this amendment authorizes more funding than the President proposed in his budget and certainly more funding than we proposed in our budget.

This 11.5 percent increase authorized in this amendment will authorize approximately \$1.5 billion more for fiscal year 2002 than did H.R. 1 as introduced. For all subsequent years, the amendment authorizes further increases in

aggregate funding of 14 percent. This increase in subsequent years is in line with President Bush's original budget request for K-12 education programs.

This amendment more than triples the percentage increase in K-12 funding in our budget resolution. This amendment guarantees that increases in education spending and increases for the Department of Education will make it the most significant recipient of additional funds of any cabinet agency. This is the largest increase in Federal spending for any cabinet agency.

Mr. Chairman, the Bush administration is urging amendment of H.R. 1 to more closely conform to the President's budget. Our choice is to spend a great deal more, 11.5 percent, or to in fact bust the budget so much to make this bill so unrecognizable that we are jeopardizing other education programs that are not covered by this bill if we intend to live within the overall projection of an 11.5 percent increase in funding for education.

I, therefore, urge adoption of this amendment, which is a very moderate approach to resolving the problem, because it is a much bigger increase in spending than was proposed by the administration. It is a bigger increase than was proposed in our own budget. It is a bigger increase than was in H.R. 1 as introduced. It is consistent with the 11.5 percent increase across the board for education that the administration proposes; and yet it maintains fiscal discipline, something we should be teaching our children as we act here in Congress responsibly with a very good bill to improve education.

It is important to live within a budget. Certainly an 11.5 percent increase in these programs, the largest increase of any cabinet agency, is something that we should all be very, very proud of. I urge adoption of this amendment, Mr. Chairman.

Mr. Chairman, I reserve the balance of my time.

Mr. KILDEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have always believed that education, the education dollar, is really an investment dollar. It should really be part of our capital budget. It is a very important area of our national life, and we worked closely on these figures within the committee and reached bipartisan support for these figures in the committee, not without the knowledge of the White House.

Now, the White House submitted the budget, but White Houses are even permitted to adjust figures. We worked closely with Sandy Kress from the White House as we, in a bipartisan way, crafted what we figured were figures that should be the authorization levels for these programs.

Now, albeit we will have to fight for the appropriations for these things, I have always said that the authorization is much like a get-well card. If I have a friend who is ill, I will send my friend a get-well card indicating my sentiment and the value of my friend;

but what my friend really needs is the Blue Cross card to pay the bills.

This is what the committee, the authorizing committee, agreed upon were figures that would address the needs of education in this country. We did not do this in a vacuum in secret from the White House. Mr. Sandy Kress was with us most of those times as we discussed this. So I would assume the White House certainly wants this bill to be passed. I know they have been working very, very hard on both sides of the aisle to get this bill passed.

So let us give the White House a chance in some informal way to adjust its figures that it had in its budget.

What did we do in the committee? We did double the title I program over 5 years to \$17.2 billion to raise the academic achievement of our low-income children. We have all talked about the importance of title I.

We increased resources for teacher quality by \$1.3 billion to \$3.6 billion. We have school districts throughout this country that have what I call "bus stop" teachers. They have teachers who are not qualified, they are not certified, not qualified to teach in their field. That is unfair to our students so we increased money for teacher quality.

We set aside \$500 million to turn around our low-performing schools. We have to identify those low-performing schools by having some standards and some good assessment, and we will turn those schools around hopefully with these dollars.

We invest \$750 million for students with limited English proficiency, a \$290 million increase. The gentleman from Texas (Mr. HINOJOSA) worked very hard on that issue. It increases an area that is very, very important for our national life.

It increases education technology to \$1 billion, an increase of \$128 million.

These figures were arrived at in the full light of the day with the awareness of the White House, and the White House in the last few days has been pushing for enactment of this bill. I would urge that this amendment be turned down.

Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina (Mr. DEMINT).

Mr. DEMINT. Mr. Chairman, I rise today in support of the amendment offered by the gentleman from California (Mr. COX). The Cox amendment is responsible public policy to allow for an 11.5 percent increase in elementary and secondary education funding over last year's level. This amendment authorizes more money for K-12 programs than did H.R. 1, "leave no child behind" legislation as introduced.

By standing here today and supporting the Cox amendment others may make claims that this is a gutting or cutting amendment of the whole bill; that this for some reason would make me less of a pro-child or pro-education Member of Congress.

Let me be clear on a couple of things. First, this amendment allows for a significant amount of increased spending for education over the current appropriation levels.

Secondly, it is not as if money alone will put us on the path to education reform in this country. We all know that we have spent over \$120 billion Federal dollars on title I programs for disadvantaged children since the program began in 1965, with \$80 billion in the last decade. We have little improvement to show for all of this spending.

The achievement gap has not closed. In fact, despite increased spending, test scores remain stagnant.

We should not subsidize failure. We should not pour more money into the status quo. As we provide for more funding, we should ask for results.

In my life before Congress, I was a quality consultant, and we worked a lot on improving qualities in corporations; and we found that just putting more money or energy behind the current processes seldom improved very much at all. It was only when we let the people who were actually on the front lines have the flexibility and authority to actually change things that quality could actually be improved. Measuring output and setting minimum standards did very little to improve quality.

America, in just about every other segment, has understood that changing the process can improve the quality.

I know we all desire the same outcome. We want better schools and better education for all of our children across this land. To secure the future for our children, I believe that the answer is not money alone but that embracing some real reform concepts that we have talked about here today.

I believe that when we give teachers and principals and parents more flexibility and authority at the local level, we can actually change things. And until we do, just flooding the system with more money is not going to work.

We have a very responsible proposal by the gentleman from California (Mr. COX) to increase funding over a level last year that was also substantially increased. Let us give time for our reforms to work. Let us fund it at an 11.5 percent increase, more money for reading and all the critical programs we have talked about, and then review in a year or two and see how we can continue to improve.

I urge all of my colleagues to support the COX amendment as a practical measure.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Without objection, the gentleman from California (Mr. GEORGE MILLER) will control the time in opposition.

There was no objection.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. ANDREWS).

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Chairman, I thank my friend, the gentleman from California (Mr. GEORGE MILLER), for yielding me this time.

Mr. Chairman, I rise in opposition to this amendment. There is a basic agreement in this bill that would be completely rejected and violated if this amendment were enacted. And the agreement is this: many of us who frankly have some misgivings about annual testing held together yesterday and with a bipartisan majority rejected an amendment that would have removed annual testing from this bill. Here is what the annual testing will tell us: schools that are overcrowded, that have minimal parental involvement, that have teachers teaching out of field, in dilapidated facilities, that are not safe, will have low test scores. That is what the annual testing is going to tell us.

What we also know is that fixing that problem will require better teachers teaching in field to smaller classes with better technology in more modern, safer facilities, with greater parental involvement, with breakfast programs, with after-school programs, with tutoring and summer school, and all of the other elements that make a school successful. That costs money.

If we do not follow up on the other part of this agreement and provide for the doubling of title I funding that is authorized by this bill, then this bill is nothing but a cruel hoax on the lagging schools and the struggling students of this country.

The amendment does a public service, I must say. It points out the difference between the rhetoric of the administration and the reality of the budget resolution approved by this House and by the other body. Perhaps by the rules we are bound by that resolution, but by our commitment to better education and by our commitment to the principles that underlie this bill we are not. We should reject this amendment and adhere to this deal.

Mr. COX. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, I thank the gentleman from California (Mr. GEORGE MILLER) for yielding me this time.

Mr. Chairman, I rise in strong opposition to the gentleman's amendment. Over my 10 years in Congress, I have often come down on this floor to argue for a balanced budget, to argue for a line item veto, to argue against a space station that is now an additional \$4 billion over budget, as someone who believes that money is not the answer to all of our problems.

□ 1715

In this bill, we have crafted a bipartisan agreement that says, very carefully, we will test more children and diagnostically use those tests to try to help remediate many of these children

in title I schools in some of the poorest areas of America, in schools where some of these children do not have computers, where they have textbooks with missing pages that are 30 years old. They have roofs falling down on top of them, and they have schools that sometimes are delayed opening by 3 and 4 weeks because of plumbing problems.

Now, I would love to be a political consultant and put commercials together in the next election which would kind of say on these votes coming up, here was a vote to put \$3 billion toward the poorest children in America and help in a bipartisan way get them a good education, or another vote to give the taxpayers of this country a \$1.35 trillion tax cut. We did not have enough room to help the poorest kids in America, but we sure had plenty to go even higher than a \$1.35 trillion tax cut.

Mr. Chairman, this is a bipartisan agreement to help on bipartisan testing, to help remediate in diagnostic ways the poorest kids in the poorest districts. Let us defeat this amendment and move forward to conference with a bipartisan bill.

Mr. COX. Mr. Chairman, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield the remaining time for the purposes of closing to the gentleman from Hawaii (Mrs. MINK).

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman from California for yielding me this time.

What I think this House needs to bear in mind as we consider this very, very important amendment is that the structure that we have put forth is a formula which really puts the Federal Government into the position of elaborating very strict standards that the school districts that are eligible for this funding under title I and other titles must meet in order to receive the funding. And then, on top of that, pursuant to the President's recommendation, we have now said that the schools have to test these children in every grade from 3 to 8. Why are we doing all of this testing if we are not going to help these children and the schools meet their requirements of success? Leave no child behind. We cannot test, evaluate, have standards, require the schools to meet them and not come up with the necessary resources.

So I urge this House to keep faith with what the President has said, leave no child behind, keep faith with what the bipartisan committee has done in recommending H.R. 1, and it was a very difficult task; there are lots of things that I would like to see in this bill, school construction, smaller classrooms and other things, but we came together with a core agreement. The Republicans had to make some concessions, the Democrats made concessions, but we have an understanding that this is what it takes to reform education in America, to make sure that the poorest among us have an opportunity.

Mr. Chairman, we have lifted up the hope and faith of the people of this country, the teachers and the families who believe that what we are doing means something when we double the funding for title I. It is not an empty phrase, it is not a percentage over what we did last year. This is a new thrust to try to meet the responsibilities of this country. Yes, local school districts and the States have the primary responsibility for education, but the Federal Government is saying, we want to help. Do not diminish that promise of help by cutting before we even get to the table to negotiate with the appropriators on the money necessary to produce equal opportunity for our kids in this country.

Mr. COX. Mr. Chairman, I ask unanimous consent that the debate be extended by 5 minutes on each side.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado (Mr. SCHAFER).

Mr. SCHAFER. Mr. Chairman, I thank the gentleman for yielding me this time.

Our schools are important enough and our children matter enough that we ought to be willing to spend a lot of money, frankly, on education, if that spending comes along with real, meaningful reform that has the promise, offers the promise of improving our schools.

The President proposed meaningful reform, and he also proposed spending 11.5 percent in increases over last year's spending on education. Now, the reform has been ripped out of the bill. The choice has been taken out of the bill. The President proposed school choice in his Leave No Child Behind provision; that is gone. The flexibility provisions are not even going to be brought up on the floor. That is gone. What we have are some testing provisions, all of which can fit easily within the 11.5 percent increase that the President proposed for the whole plan. H.R. 1 now is just a fraction of the plan, yet we are spending even more money than the President proposed.

In an effort to try to be consistent and at least stick to what the President originally had suggested this Congress do, he stood right here in front of us, he brought this plan with him and described it, he brought his budget proposals and suggested that the government should grow at a rate of 4 percent, but he made the exception with the Department of Education, that the Department of Education should grow at a rate of 11.5 percent over the next year, nearly 3 times more than the rest of government.

Those reforms, I believe, were important, and I regret that they are no longer part of H.R. 1. But the Committee on Education and the Workforce prepared this chart and I would refer

Members to it. It shows that way back in 1990, we had an expenditure of about \$18.6 billion. That has grown this year to \$42.1 billion. This is a huge escalation in growth and spending in the size of the education bureaucracy, yet test scores in the country remain stagnant.

The message here is that throwing more money at the education problem clearly has no impact whatsoever on the improvement of academic performance of our students; reform does. However, we decided reform is not important in H.R. 1. Let us at least give the President a victory on his spending proposals. Let us adopt the Cox amendment at 11.5 percent.

Mr. COX. Mr. Chairman, I yield myself 15 seconds.

I want to again focus our attention on the fact that the amendment that is before us calls for an 11.5 percent increase over last year in funding for the programs covered by this legislation.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my colleagues on this side of the aisle have already laid out the situation that we find ourselves in. Passage of this amendment, in fact, breaks the arrangement and the deal that we have with respect to this legislation.

Let us look at why we have added the increases that we have in this legislation. We have added the increases in this legislation because we think they are important to bringing about the reforms that many in this Congress have said, many on both sides of the aisle, but also what clearly this President of the United States has said that he wants to achieve in terms of the results. Yes, that chart that was just held up by the gentleman from Colorado (Mr. SCHAFFER), and earlier held up a number of times by the gentleman from Georgia (Mr. ISAKSON), tells us a story that we are not particularly proud of. But that is because in the past, generally, when we have authorized this legislation, we have not put in the accountability provisions that are in this bill.

So these school districts that have among the highest percentages of poor children of any school districts in the Nation, very often they are also the poorest school districts because they do not have very high assessed evaluations, so certainly they are not receiving the resources that are necessary that they receive, or we would not have this program, because the States have already made the determination to not provide them the equalized funding.

But among these, the poorest school districts with the poorest children, as the President will point out, and the poorest performing children, under this legislation, within 4 years they are going to have to have a qualified teacher in every classroom. Today they have teachers on emergency credentials. Today they have teachers on provisional credentials. They are going to

have to get those teachers trained, certified and qualified to teach in the subject matter in which they are teaching. That does not come free. They are going to be held accountable, not just for the average, how the average child is doing in the school district, but they are going to be held accountable for every poor child, for every minority child, for every limited English-speaking child in that school district. They are going to have to have the results that suggest that they are making the yearly progress. They are going to be held to yearly standards on making that progress according to the standards selected by the States.

That is why we need new resources. That is why it is not a question of whether it is 11 percent or not, it is a question of whether or not we are adequately prepared to fund and to provide these kids an opportunity and a first class education. Because even with this effort, almost all of these children will not have the financial resources available to them that many of our children have had available to them in the schools where they have gone. That is why they are among some of the least performing schools in our system.

So let us understand that this is a very different arrangement than what the Congress has done in the past. There is a huge lobby in this town that is against this bill, because they are for the status quo. They are not for testing. They are not for accountability. They are just for Federal dollars. And what we have said in this legislation is we are not going there again. We are not going to have this, the first education bill of the millennium. We are not going to have this, when we just put the money on the table. As the gentleman from Michigan (Mr. KILDEE) says, they just come by and take it. No, if you want to sign up for this, you are going to be held accountable and you have to have first class programs for all of the children, all of the children, and they deserve them.

Mr. GEORGE MILLER of California. Mr. Chairman, I reserve the balance of my time.

Mr. COX. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona (Mr. SHADEGG), the chairman of the Republican Study Committee.

Mr. SHADEGG. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to first associate myself with the remarks of the gentleman from Colorado (Mr. SCHAFFER), who pointed out that it is regrettable that much of the reforms that were in this legislation that would have improved education across America are gone. But I really want to focus my remarks now on the Cox amendment and why I think it is such a good amendment.

The gentlewoman from Hawaii (Mrs. MINK) who spoke before the last speaker on the other side, in her remarks, said that we should not begin this process by cutting; indeed, that that would be a serious mistake. Well, make no

mistake about it: there is no cutting going on in this bill or in the Cox amendment, nor is there any cutting going on in education spending.

Since the Republican Party became the majority in this Congress, we have more than doubled the funding for K-through-12 education. Indeed, we have increased it by 109 percent. That is not a cut of spending by any stretch. In the Cox amendment, we triple funding. As a matter of fact, as this chart shows, we triple the rate of funding increase from the original H.R. 1 for K-through-12 education. We go to the President's proposal of an 11.5 percent spending increase next year, the highest of any cabinet level agency in the country. So for someone to talk about cutting, they are simply not getting the facts straight. A tripling of the rate of spending is not cutting. This is a fiscally responsible amendment, which I urge my colleagues to adopt.

□ 1730

Let us look at some of the other facts.

The Cox amendment matches the President's Department of Education budget request. The Cox amendment authorizes more funding for K through 12 education programs than did H.R. 1, as introduced. The Cox amendment authorizes more funding for K through 12 programs than the President's budget.

On top of that, the Cox amendment guarantees that the Department of Education will receive the single largest increase in spending of any cabinet agency.

This is a reasonable amendment. It is a fiscally prudent amendment. To call it cutting is to misrepresent the facts. I urge my colleagues to join me in passing the Cox amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Let me say this about this amendment to cut these education monies for the poorest children in our society and the poorest school districts in our society.

Mr. Chairman, we have to put it in context. We have to put it in context. We are going to finish this bill in the next hour. Then we are going to have a motion to go to conference on a tax bill, a \$1.3 trillion tax bill that is going to spend 13 times as much on the top 1 percent of taxpayers in this country than we are going to spend in all of this legislation.

Some on that side of the aisle would think that the rich do not have enough money and the poor have too much. This money is absolutely essential in this bill if in fact we are going to bring about the reforms that almost every Member in this body has said that he or she wants for their school districts, for the children who reside in those school districts, and if we are in fact going to have those reforms result in the results that we all say we want in terms of the performance of our students.

They can chop the money, but they should not come telling me they want the same results. They cannot bring about these reforms on the cheap. They cannot do that. So if we put it in the context of what else this Congress is doing, we tried to explain, it would be difficult to do a first class job on education and also to have a \$1 trillion tax cut, but they have made those choices.

However, we ought not now, in the same night we are going to do the \$1 trillion tax cut, take away from the poorest children in this country their one chance at education, opportunity, and accountability that they have been denied for so very long. That is what we have to understand.

That is why we have got to reject the Cox amendment and stay with the bill that was reported from the committee, that was reported out with overwhelmingly bipartisan support.

Mr. COX. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank the ranking member, the gentleman from California (Mr. GEORGE MILLER), for his hard work on this legislation. I intend to vote for it. I support the accountability that is in this bill. I support the President's aim to make sure that no child is left behind. I support the whole of the President's request, including in particular the President's request to this House that we amend this bill as it was reported to committee to make it more closely conform with the President's budget and our own budget.

The President has proposed an 11.5 percent increase in education programs. Our own budget proposed a 3.2 percent increase in funding for the K through 12 programs that are the subject of this bill.

My amendment increases H.R. 1 as introduced, increases the budget that has already been passed by this House so that the total of programs funded by this bill are increased next year by 11.5 percent. If we do not adopt this amendment, the rate of increase will be 23.5 percent.

I have school-aged kids. They are in second grade, first grade, and preschool. I care a lot about their future, which is why I am so supportive of this big increase in support for education, continuing the major increases in funding that we have experienced over the last several years.

But I worry about their future, not just in education but also in Social Security and in Medicare. I want the future for them to be just as great in the job market as it has been recently during the 1990s. I hope we can have some tax relief so those jobs will be there.

If we go way beyond the 3.2 percent increase in our budget, way beyond even the 11.5 percent that is called for in this amendment, then our appropriators, my colleagues on the other side of the aisle and on this side of the aisle who are striving to maintain our responsible budget, will have to cut other education programs that are not covered by this bill. That is not what anyone here wants.

Mr. Chairman, let us honor the President's request to more closely conform this bill to his and our own budget. Let us live within a budget. Let us honor our children. Let us honor their future. Vote yes on the Cox amendment.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from California (Mr. COX).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. GEORGE MILLER of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California (Mr. COX) will be postponed.

PREFERENTIAL MOTION OFFERED BY MR.
GEORGE MILLER OF CALIFORNIA

Mr. GEORGE MILLER of California. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. GEORGE MILLER of California moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore. The gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of my motion. I do so to once again outline the accomplishments of this legislation, and to buy a bit of time for some of our Members who are currently in a meeting.

Mr. Chairman, we are bringing to a close here the debate on H.R. 1. I want to begin by thanking certainly all of the Members that have participated in that debate on this floor, on both sides of the aisle. It has been a spirited debate from time to time, but that is because we have very strongly-held views in this House about education, and we have different views about how that education should be carried out, and the Federal role and involvement in education in this country.

It is honorable and it is important that this House allow that kind of debate, and I appreciate the fact that the Committee on Rules did in fact make in order the amendments that they did. I wish they would have made in order more of the amendments from this side of the aisle so we could have debated school construction and class size reduction, but we were not able to do that.

However, I think, as Members can see from the debate over the last 2 days, it is very clear that this subject matter captures the interest and the imagination of the Members of Congress. They all have very strong feelings on it.

All of us have spent a great deal of time when we were back in our districts visiting schools, talking to schoolteachers, talking to parents, talking to children, going through the

process over and over again at all different levels.

It is clear that this is the foundation of our society. This legislation is tough. This legislation is comprehensive. This legislation is controversial. However, I think in fact that the work product that we have put together here is one that we can all be proud of, and I think as we bring about this first reauthorization of the Elementary and Secondary Education Act of this millennium, that we truly are setting out on a different course.

We are setting out on a different course because the President wants to change the direction, and because Members of Congress on a bipartisan basis want to change the direction of the use of Federal dollars and the purposes for which they are used.

This legislation has called together a coalition, again from both sides of the aisle, but even within our own caucus. Some of the suggestions made here, and some of, in fact, the key suggestions, were brought to us in our caucus by the New Democrats, who helped us reach agreement with the Republicans on flexibility, something we have talked about for many years.

It has been very controversial, there has been great resistance to it, but in this legislation in fact we have worked it out. I want to thank those Members for that.

I also want to make clear that I do not want to overlook, as we get to the end, the work that has been done by the staff. The members of the working group spent a lot of time talking about this legislation, but our staff spent much, much more time, as did the staff of all of the Members of the Committee, in bringing about this agreement.

We worked on Tuesdays, Wednesdays, and Thursdays on this legislation, and the staff worked Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, and Sundays on this legislation, and very often late at night. I think the work product reflects that. This committee is very fortunate to have people with a great deal of institutional memory and with a great deal of skills and talent and knowledge about this subject matter.

We have warred over some of these topics and we have agreed on some of these topics, but I think that is why in fact we again were able to produce this work product in this Congress this rapidly, and with this level of agreement.

Mr. Chairman, I ask unanimous consent to withdraw my motion.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE
OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 20 offered by the gentleman from Texas (Mr. BRADY);

Amendment No. 26 offered by the gentleman from Illinois (Mr. KIRK);

Amendment No. 28 offered by the gentleman from California (Mr. COX).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 20 OFFERED BY MR. BRADY OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Texas (Mr. BRADY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 189, not voting 4, as follows:

[Roll No. 141]

AYES—239

Aderholt	Ferguson	Largent
Akin	Flake	Latham
Armey	Fletcher	LaTourette
Bachus	Foley	Leach
Baird	Fossella	Lewis (CA)
Baker	Frelinghuysen	Lewis (KY)
Ballenger	Gallegly	Linder
Barr	Ganske	LoBiondo
Bartlett	Gekas	Lucas (KY)
Barton	Gibbons	Lucas (OK)
Bass	Gilchrest	Matheson
Bereuter	Gillmor	McCrery
Biggert	Goode	McHugh
Bilirakis	Goodlatte	McInnis
Blunt	Goss	McKeon
Boehlert	Graham	Mica
Boehner	Granger	Miller (FL)
Bonilla	Graves	Miller, Gary
Bono	Green (WI)	Mollohan
Borski	Greenwood	Moran (KS)
Boyd	Grucchi	Myrick
Brady (TX)	Gutknecht	Nethercutt
Brown (SC)	Hall (OH)	Ney
Bryant	Hall (TX)	Northup
Burr	Hansen	Norwood
Burton	Hart	Nussle
Buyer	Hastings (WA)	Osborne
Callahan	Hayes	Ose
Calvert	Hayworth	Otter
Camp	Hefley	Oxley
Cannon	Herger	Pence
Cantor	Hilleary	Peterson (MN)
Capito	Hobson	Peterson (PA)
Castle	Hoekstra	Petri
Chabot	Holden	Phelps
Chambliss	Horn	Pickering
Clement	Hostettler	Pitts
Coble	Houghton	Platts
Collins	Hulshof	Pombo
Combest	Hunter	Portman
Condit	Hutchinson	Pryce (OH)
Cooksey	Hyde	Putnam
Cox	Isakson	Quinn
Cramer	Issa	Radanovich
Crane	Istook	Ramstad
Crenshaw	Jenkins	Regula
Culberson	John	Rehberg
Cunningham	Johnson (CT)	Reynolds
Davis, Jo Ann	Johnson, Sam	Riley
Davis, Tom	Jones (NC)	Roemer
Deal	Kanjorski	Rogers (KY)
DeLay	Keller	Rogers (MI)
DeMint	Kelly	Roukema
Dicks	Kennedy (MN)	Royce
Doolittle	Kerns	Ryan (WI)
Dreier	King (NY)	Ryun (KS)
Duncan	Kingston	Saxton
Dunn	Kirk	Scarborough
Ehlers	Knollenberg	Schaffer
Emerson	Kolbe	Schiff
Everett	LaHood	Schrock

Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skeltan
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence

Spratt
Stearns
Stenholm
Stump
Sununu
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Toomey
Traficant

Upton
Vitter
Walden
Walsh
Wamp
Watkins
Wicks
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Wu
Wynn
Young (AK)
Young (FL)

Mr. PHELPS and Mr. HOLDEN changed their vote from “no” to “aye.”

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SHIMKUS). Pursuant to clause 6 of rule XVIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 26 OFFERED BY MR. KIRK

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. KIRK) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 425, noes 3, not voting 4, as follows:

[Roll No. 142]

AYES—425

Abercrombie	Buyer	Dicks
Ackerman	Callahan	Dingell
Aderholt	Calvert	Doggett
Akin	Camp	Dooley
Allen	Cannon	Doolittle
Andrews	Cantor	Doyle
Armey	Capito	Dreier
Baca	Capps	Duncan
Bachus	Capuano	Dunn
Baird	Cardin	Edwards
Baker	Carson (IN)	Ehlers
Baldacci	Carson (OK)	Ehrlich
Baldwin	Castle	Emerson
Ballenger	Chabot	Engel
Barcia	Chambliss	English
Barr	Clay	Eshoo
Barrett	Clayton	Etheridge
Bartlett	Clement	Evans
Barton	Clyburn	Everett
Bass	Coble	Farr
Becerra	Collins	Fattah
Bentsen	Combest	Ferguson
Bereuter	Condit	Filner
Berkley	Conyers	Flake
Berman	Cooksey	Fletcher
Berry	Costello	Foley
Biggert	Cox	Ford
Bilirakis	Coyne	Fossella
Bishop	Cramer	Frank
Blagojevich	Crane	Frelinghuysen
Blumenauer	Crenshaw	Frost
Blunt	Crowley	Gallegly
Boehlert	Culberson	Ganske
Boehner	Cummings	Gekas
Bonilla	Cunningham	Gephardt
Bonior	Davis (CA)	Gibbons
Bono	Davis (FL)	Gilchrest
Borski	Davis (IL)	Gillmor
Boswell	Davis, Jo Ann	Gilman
Boucher	Davis, Tom	Gonzalez
Boyd	Deal	Goode
Brady (PA)	DeFazio	Goodlatte
Brady (TX)	DeGette	Gordon
Brown (FL)	Delahunt	Goss
Brown (OH)	DeLauro	Graham
Brown (SC)	DeLay	Granger
Bryant	DeMint	Graves
Burr	Deutsch	Green (TX)
Burton	Diaz-Balart	Green (WI)

NOT VOTING—4

□ 1804

Messrs. TERRY, WEINER, GUTIERREZ, NADLER, GEPHARDT, SERRANO, DIAZ-BALART, ENGLISH, Ms. ROS-LEHTINEN, Mr. MCINTYRE and Mr. PASCRELL changed their vote from “aye” to “no.”

Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Tanner
Sweeney
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

rejected.

Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Ros-Lehtinen
Ross
Rothman
Roukema
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Scott
Serrano
Shaw
Shays
Sherman
Sherwood
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Tanner
Sweeney
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—5
Moakley
Rush

□ 1819

Mr. CALVERT changed his vote from
“aye” to “no.”
So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. LARSON of Connecticut. Mr. Chairman, on rollcall No. 143, the Cox of California amendment, I inadvertently voted "yea" on rollcall No. 143. I intended to vote "nay."

The CHAIRMAN pro tempore. There being no further amendments in order under the rule, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. SHIMKUS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1) to close the achievement gap with accountability, flexibility, and choice, so that no child is left behind, pursuant to House Resolution 143, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OWENS

Mr. OWENS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OWENS. At this point I am opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OWENS moves to recommit the bill H.R. 1 to the Committee on Education and the Workforce with instructions to report the same back to the House forthwith with the following amendment:

Page 926, after line 12, insert the following (and redesignate provisions and conform the table of contents accordingly):

TITLE IX—SCHOOL IMPROVEMENT PROGRAMS

SEC. 901. SCHOOL IMPROVEMENT PROGRAMS.

The Elementary and Secondary Education Act of 1965, as amended by this Act, is further amended by adding at the end the following:

"TITLE IX—SCHOOL IMPROVEMENT PROGRAMS

"PART A—SCHOOL REPAIR, RENOVATION, AND CONSTRUCTION; ASSISTANCE FOR CHILDREN WITH DISABILITIES; TECHNOLOGY ACTIVITIES

"SEC. 9101. GRANT PROGRAM.

"(a) GRANTS TO NATIVE AMERICAN SCHOOLS AND STATE EDUCATIONAL AGENCIES.—

"(1) ALLOCATION OF FUNDS.—Of the amount made available to carry out this section for any fiscal year, the Secretary shall allocate—

"(A) \$75,000,000 for grants to impacted local educational agencies (as defined in paragraph (3)) for school repair, renovation, and construction;

"(B) \$3,250,000 for grants to outlying areas for school repair and renovation in high-need schools and communities, allocated on such basis, and subject to such terms and conditions, as the Secretary determines appropriate;

"(C) \$25,000,000 for grants to public entities, private nonprofit entities, and consortia of such entities, for use in accordance with part B; and

"(D) the remainder to State educational agencies in proportion to the amount each State received under part A of title I for the previous fiscal year, except that no State shall receive less than 0.5 percent of the amount allocated under this subparagraph.

"(2) DETERMINATION OF GRANT AMOUNT.—

"(A) DETERMINATION OF WEIGHTED STUDENT UNITS.—For purposes of computing the grant amounts under paragraph (1)(A) for any fiscal year, the Secretary shall determine the results obtained by the computation made under section 6003 with respect to children described in subsection (a)(1)(C) of such section and computed under subsection (a)(2)(B) of such section for such year—

"(i) for each impacted local educational agency that receives funds under this section; and

"(ii) for all such agencies together.

"(B) COMPUTATION OF PAYMENT.—The Secretary shall calculate the amount of a grant to an impacted local educational agency by—

"(i) dividing the amount described in paragraph (1)(A) by the results of the computation described in subparagraph (A)(ii); and

"(ii) multiplying the number derived under clause (i) by the results of the computation described in subparagraph (A)(i) for such agency.

"(3) DEFINITION.—For purposes of this section, the term 'impacted local educational agency' means, for any fiscal year—

"(A) a local educational agency that receives a basic support payment under section 6003(b) for such fiscal year; and

"(B) with respect to which the number of children determined under section 6003(a)(1)(C) for the preceding school year constitutes at least 50 percent of the total student enrollment in the schools of the agency during such school year.

"(b) WITHIN-STATE ALLOCATIONS.—

"(1) ADMINISTRATIVE COSTS.—

"(A) STATE EDUCATIONAL AGENCY ADMINISTRATION.—Except as provided in subparagraph (B), each State educational agency may reserve not more than 1 percent of its allocation under subsection (a)(1)(D) for the purpose of administering the distribution of grants under this subsection.

"(B) STATE ENTITY ADMINISTRATION.—If the State educational agency transfers funds to a State entity described in paragraph (2)(A), the agency shall transfer to such entity 0.75 of the amount reserved under this paragraph for the purpose of administering the distribution of grants under this subsection.

"(2) RESERVATION FOR COMPETITIVE SCHOOL REPAIR AND RENOVATION GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 75 percent of such funds to local educational agencies or, if such State educational agency is not responsible for the financing of education facilities, the agency shall transfer such funds to the State entity responsible for the financing of education facilities (referred to in this section as the 'State entity') for distribution by such entity to local educational agencies in accordance with this paragraph, to be used, consistent with subsection (c), for school repair and renovation.

"(B) COMPETITIVE GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

"(i) IN GENERAL.—The State educational agency or State entity shall carry out a program of competitive grants to local educational agencies for the purpose described in subparagraph (A). Of the total amount available for distribution to such agencies under this paragraph, the State educational agency or State entity, shall, in carrying out the competition—

"(I) award to high poverty local educational agencies described in clause (ii), in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such local educational agencies received under part A of title I for the previous fiscal year bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State;

"(II) award to rural local educational agencies in the State, in the aggregate, at least an amount which bears the same relationship to such total amount as the aggregate amount such rural local educational agencies received under part A of title I for the previous fiscal year bears to the aggregate amount received for such fiscal year under such part by all local educational agencies in the State; and

"(III) award the remaining funds to local educational agencies not receiving an award under subclause (I) or (II), including high poverty and rural local educational agencies that did not receive such an award.

"(ii) HIGH POVERTY LOCAL EDUCATIONAL AGENCIES.—A local educational agency is described in this clause if—

"(I) the percentage described in subparagraph (C)(i) with respect to the agency is 30 percent or greater; or

"(II) the number of children described in such subparagraph with respect to the agency is at least 10,000.

"(C) CRITERIA FOR AWARDED GRANTS.—In awarding competitive grants under this paragraph, a State educational agency or State entity shall take into account the following criteria:

"(i) The percentage of poor children 5 to 17 years of age, inclusive, in a local educational agency.

"(ii) The need of a local educational agency for school repair and renovation, as demonstrated by the condition of its public school facilities.

"(iii) The fiscal capacity of a local educational agency to meet its needs for repair and renovation of public school facilities without assistance under this section, including its ability to raise funds through the use of local bonding capacity and otherwise.

"(iv) In the case of a local educational agency that proposes to fund a repair or renovation project for a charter school or schools, the extent to which the school or schools have access to funding for the

project through the financing methods available to other public schools or local educational agencies in the State.

“(v) The likelihood that the local educational agency will maintain, in good condition, any facility whose repair or renovation is assisted under this section.

“(D) POSSIBLE MATCHING REQUIREMENT.—

“(i) IN GENERAL.—A State educational agency or State entity may require local educational agencies to match funds awarded under this subsection.

“(ii) MATCH AMOUNT.—The amount of a match described in clause (i) may be established by using a sliding scale that takes into account the relative poverty of the population served by the local educational agency.

“(3) RESERVATION FOR COMPETITIVE IDEA OR TECHNOLOGY GRANTS TO LOCAL EDUCATIONAL AGENCIES.—

“(A) IN GENERAL.—Subject to the reservation under paragraph (1), of the funds allocated to a State educational agency under subsection (a)(1)(D), the State educational agency shall distribute 25 percent of such funds to local educational agencies through competitive grant processes, to be used for the following:

“(i) To carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

“(ii) For technology activities that are carried out in connection with school repair and renovation, including—

“(I) wiring;

“(II) acquiring hardware and software;

“(III) acquiring connectivity linkages and resources; and

“(IV) acquiring microwave, fiber optics, cable, and satellite transmission equipment.

“(B) CRITERIA FOR AWARDED IDEA GRANTS.—In awarding competitive grants under subparagraph (A) to be used to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), a State educational agency shall take into account the following criteria:

“(i) The need of a local educational agency for additional funds for a student whose individually allocable cost for expenses related to the Individuals with Disabilities Education Act substantially exceeds the State's average per-pupil expenditure.

“(ii) The need of a local educational agency for additional funds for special education and related services under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

“(iii) The need of a local educational agency for additional funds for assistive technology devices (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) or assistive technology services (as so defined) for children being served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

“(iv) The need of a local educational agency for additional funds for activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) in order for children with disabilities to make progress toward meeting the performance goals and indicators established by the State under section 612(a)(16) of such Act (20 U.S.C. 1412).

“(C) CRITERIA FOR AWARDED TECHNOLOGY GRANTS.—In awarding competitive grants under subparagraph (A) to be used for technology activities that are carried out in connection with school repair and renovation, a State educational agency shall take into account the need of a local educational agency for additional funds for such activities, including the need for the activities described

in subclauses (I) through (IV) of subparagraph (A)(ii).

“(C) RULES APPLICABLE TO SCHOOL REPAIR AND RENOVATION.—With respect to funds made available under this section that are used for school repair and renovation, the following rules shall apply:

“(1) PERMISSIBLE USES OF FUNDS.—School repair and renovation shall be limited to one or more of the following:

“(A) Emergency repairs or renovations to public school facilities only to ensure the health and safety of students and staff, including—

“(i) repairing, replacing, or installing roofs, electrical wiring, plumbing systems, or sewage systems;

“(ii) repairing, replacing, or installing heating, ventilation, or air conditioning systems (including insulation); and

“(iii) bringing public schools into compliance with fire and safety codes.

“(B) School facilities modifications necessary to render public school facilities accessible in order to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

“(C) School facilities modifications necessary to render public school facilities accessible in order to comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

“(D) Asbestos abatement or removal from public school facilities.

“(E) Renovation, repair, and acquisition needs related to the building infrastructure of a charter school.

“(2) IMPERMISSIBLE USES OF FUNDS.—No funds received under this section may be used for—

“(A) payment of maintenance costs in connection with any projects constructed in whole or in part with Federal funds provided under this section;

“(B) the construction of new facilities, except for facilities for an impacted local educational agency (as defined in subsection (a)(3)); or

“(C) stadiums or other facilities primarily used for athletic contests or exhibitions or other events for which admission is charged to the general public.

“(3) CHARTER SCHOOLS.—A public charter school that constitutes a local educational agency under State law shall be eligible for assistance under the same terms and conditions as any other local educational agency.

“(4) SUPPLEMENT, NOT SUPPLANT.—Excluding the uses described in subparagraphs (B) and (C) of paragraph (1), a local educational agency shall use Federal funds subject to this subsection only to supplement the amount of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for school repair and renovation.

“(d) SPECIAL RULE.—Each local educational agency that receives funds under this section shall ensure that, if it carries out repair or renovation through a contract, any such contract process ensures the maximum number of qualified bidders, including small, minority, and women-owned businesses, through full and open competition.

“(e) PUBLIC COMMENT.—Each local educational agency receiving funds under paragraph (2) or (3) of subsection (b)—

“(1) shall provide parents, educators, and all other interested members of the community the opportunity to consult on the use of funds received under such paragraph;

“(2) shall provide the public with adequate and efficient notice of the opportunity described in paragraph (1) in a widely read and distributed medium; and

“(3) shall provide the opportunity described in paragraph (1) in accordance with any applicable State and local law specifying

how the comments may be received and how the comments may be reviewed by any member of the public.

“(f) REPORTING.—

“(1) LOCAL REPORTING.—Each local educational agency receiving funds under subsection (a)(1)(D) shall submit a report to the State educational agency, at such time as the State educational agency may require, describing the use of such funds for—

“(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

“(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

“(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

“(2) STATE REPORTING.—Each State educational agency shall submit to the Secretary, not later than December 31 of each year (beginning with 2003), a report on the use of funds received under subsection (a)(1)(D) by local educational agencies for—

“(A) school repair and renovation (and construction, in the case of an impacted local educational agency (as defined in subsection (a)(3)));

“(B) activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); and

“(C) technology activities that are carried out in connection with school repair and renovation, including the activities described in subclauses (I) through (IV) of subsection (b)(3)(A)(ii).

“(3) ADDITIONAL REPORTS.—Each entity receiving funds allocated under subparagraph (A) or (B) of section (a)(1) shall submit to the Secretary, not later than December 31 of each year (beginning with 2003), a report on its uses of funds under this section, in such form and containing such information as the Secretary may require.

“(g) APPLICABILITY OF PART B OF IDEA.—If a local educational agency uses funds received under this section to carry out activities under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), such part (including provisions respecting the participation of private school children), and any other provision of law that applies to such part, shall apply to such use.

“(h) REALLOCATION.—If a State educational agency does not apply for an allocation of funds under subsection (a)(1)(D) for any fiscal year, or does not use its entire allocation for any fiscal year, the Secretary may reallocate the amount of the State educational agency's allocation (or the remainder thereof, as the case may be) to the remaining State educational agencies in accordance with subsection (a)(1)(D).

“(i) PARTICIPATION OF PRIVATE SCHOOLS.—

“(1) IN GENERAL.—Section 4142 shall apply to subsection (b)(2) in the same manner as it applies to activities under subpart 1 of part A of title IV, except that—

“(A) such section shall not apply with respect to the title to any real property renovated or repaired with assistance provided under this section;

“(B) the term ‘services’ as used in section 4142 with respect to funds under this section shall be provided only to private, nonprofit elementary or secondary schools with a rate of child poverty of at least 40 percent and may include for purposes of subsection (b)(2) only—

“(i) modifications of school facilities necessary to meet the standards applicable to public schools under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(ii) modifications of school facilities necessary to meet the standards applicable to public schools under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

“(iii) asbestos abatement or removal from school facilities; and

“(C) notwithstanding the requirements of section 4142(b), expenditures for services provided using funds made available under subsection (b)(2) shall be considered equal for purposes of such section if the per-pupil expenditures for services described in subparagraph (B) for students enrolled in private nonprofit elementary and secondary schools that have child poverty rates of at least 40 percent are consistent with the per-pupil expenditures under this section for children enrolled in the public schools in the school district of the local educational agency receiving funds under this section.

“(2) REMAINING FUNDS.—If the expenditure for services described in paragraph (1)(B) is less than the amount calculated under paragraph (1)(C) because of insufficient need for such services, the remainder shall be available to the local educational agency for renovation and repair of public school facilities.

“(3) APPLICATION.—If any provision of this section, or the application thereof, to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the section and the application to other persons or circumstances shall not be affected thereby.

“(j) DEFINITIONS.—For purposes of this section:

“(1) CHARTER SCHOOL.—The term ‘charter school’ has the meaning given such term in section 4210(1).

“(2) POOR CHILDREN AND CHILD POVERTY.—The terms ‘poor children’ and ‘child poverty’ refer to children 5 to 17 years of age, inclusive, who are from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant (42 U.S.C. 9902(2)) applicable to a family of the size involved for the most recent fiscal year for which data satisfactory to the Secretary are available.

“(3) RURAL LOCAL EDUCATIONAL AGENCY.—The term ‘rural local educational agency’ means a local educational agency that the State determines is located in a rural area using objective data and a commonly employed definition of the term ‘rural’.

“(4) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$2,000,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.

“PART B—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

“SEC. 9201. PURPOSE.

“The purpose of this part is to provide one-time grants to eligible entities to permit them to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

“SEC. 9202. GRANTS TO ELIGIBLE ENTITIES.

“(a) IN GENERAL.—The Secretary shall use 100 percent of the amount available to carry out this part to award not less than three grants to eligible entities having applications approved under this part to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

“(b) GRANTEE SELECTION.—The Secretary shall evaluate each application submitted, and shall make a determination of which are sufficient to merit approval and which are not. The Secretary shall award at least one grant to an eligible entity described in section 9210(2)(A), at least one grant to an eligible entity described in section 9210(2)(B), and at least one grant to an eligible entity described in section 9210(2)(C), if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

“(c) GRANT CHARACTERISTICS.—Grants under this part shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

“(d) SPECIAL RULE.—In the event the Secretary determines that the funds available are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c), such three-grant minimum and the second sentence of subsection (b) shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c).

“SEC. 9203. APPLICATIONS.

“(a) IN GENERAL.—To receive a grant under this part, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

“(b) CONTENTS.—An application under subsection (a) shall contain—

“(1) a statement identifying the activities proposed to be undertaken with funds received under this part, including how the applicant will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

“(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

“(3) a description of the applicant's expertise in capital market financing;

“(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

“(5) a description of how the applicant possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

“(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding they need to have adequate facilities; and

“(7) such other information as the Secretary may reasonably require.

“SEC. 9204. CHARTER SCHOOL OBJECTIVES.

“An eligible entity receiving a grant under this part shall use the funds deposited in the reserve account established under section 9205(a) to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

“(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

“(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

“SEC. 9205. RESERVE ACCOUNT.

“(a) USE OF FUNDS.—To assist charter schools to accomplish the objectives described in section 9204, an eligible entity receiving a grant under this part shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this part (other than funds used for administrative costs in accordance with section 9206) in a reserve account established and maintained by the entity for this purpose. Amounts deposited in such account shall be used by the entity for one or more of the following purposes:

“(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 9204.

“(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 9204.

“(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

“(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

“(b) INVESTMENT.—Funds received under this part and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

“(c) REINVESTMENT OF EARNINGS.—Any earnings on funds received under this part shall be deposited in the reserve account established under subsection (a) and used in accordance with such subsection.

“SEC. 9206. LIMITATION ON ADMINISTRATIVE COSTS.

“An eligible entity may use not more than 0.25 percent of the funds received under this part for the administrative costs of carrying out its responsibilities under this part.

“SEC. 9207. AUDITS AND REPORTS.

“(a) FINANCIAL RECORD MAINTENANCE AND AUDIT.—The financial records of each eligible entity receiving a grant under this part shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

“(b) REPORTS.—

“(1) GRANTEE ANNUAL REPORTS.—Each eligible entity receiving a grant under this part annually shall submit to the Secretary a report of its operations and activities under this part.

“(2) CONTENTS.—Each such annual report shall include—

“(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

“(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) during the reporting period;

“(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this part in leveraging private funds;

“(D) a listing and description of the charter schools served during the reporting period;

“(E) a description of the activities carried out by the eligible entity to assist charter

schools in meeting the objectives set forth in section 9204; and

“(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this part during the reporting period.

“(3) SECRETARIAL REPORT.—The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to the Congress on the activities conducted under this part.

“SEC. 9208. NO FULL FAITH AND CREDIT FOR GRANTEE OBLIGATIONS.

“No financial obligation of an eligible entity entered into pursuant to this part (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of, or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this part.

“SEC. 9209. RECOVERY OF FUNDS.

“(a) IN GENERAL.—The Secretary, in accordance with chapter 37 of title 31, United States Code, shall collect—

“(1) all of the funds in a reserve account established by an eligible entity under section 9205(a) if the Secretary determines, not earlier than 2 years after the date on which the entity first received funds under this part, that the entity has failed to make substantial progress in carrying out the purposes described in section 9205(a); or

“(2) all or a portion of the funds in a reserve account established by an eligible entity under section 9205(a) if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 9205(a).

“(b) EXERCISE OF AUTHORITY.—The Secretary shall not exercise the authority provided in subsection (a) to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 9205(a).

“(c) PROCEDURES.—The provisions of sections 451, 452, and 458 of the General Education Provisions Act (20 U.S.C. 1234 et seq.) shall apply to the recovery of funds under subsection (a).

“(d) CONSTRUCTION.—This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.).

“SEC. 9210. DEFINITIONS.

“In this part:

“(1) The term ‘charter school’ has the meaning given such term in section 4210(1).

“(2) The term ‘eligible entity’ means—

“(A) a public entity, such as a State or local governmental entity;

“(B) a private nonprofit entity; or

“(C) a consortium of entities described in subparagraphs (A) and (B).”.

Mr. BOEHNER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes in support of his motion to recommit.

Mr. OWENS. Mr. Speaker, this motion to recommit adds a vital component that has been left out of our deliberations so far.

We were not allowed to offer an amendment on the floor dealing with school construction, renovation or modernization, and this motion to recommit includes instructions to continue the school renovation program, which is now in its first year, and increase that funding to \$2 billion.

My colleagues will recall that last year we did agree on a \$1.2 billion school repair, renovation bill. We would like to at least raise that to \$2 billion. It is a small amount compared to the need. We know that in 1994, the General Accounting Office said we needed \$110 billion at that time for school renovation, construction, and repairs. The NEA did a survey last year which said we need about \$320 billion for school construction, repair, and renovation across the whole Nation. The \$2 billion was merely to make a beginning on emergency repairs and is still very important.

It is important we say to the children in the public schools of America, 53 million children, that we care about more than just testing them. Accountability means more than accountability of the students and school and the massive testing we have proposed. Accountability also means we will stand up and make certain that those tools that they need to work with are there, especially the infrastructure, the facilities.

In a religion we would never propose to proceed without the temple, the infrastructure, the physical building being in tip-top shape to begin with. We cannot propose to have decent education if we are going to neglect the actual infrastructure, the buildings and the facilities, that children are to receive their education in.

So this is a modest proposal, a mere \$1.2 billion at this time. We want to raise that to \$2 billion to take care of emergency repairs and renovations, and we ought to continue this. I hope every Member will vote for this.

Mr. HOLT. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from New Jersey.

Mr. HOLT. Mr. Speaker, I thank the gentleman for yielding to me. America's schools are in a State of disrepair, and that is interfering with the education of today's students. On average, schools were built about 50 years ago to meet the oncoming demand of the baby boom generation, and they are now in disrepair.

The General Accounting Office reports that now one-third of our public schools are in need of extensive repair or replacement. Nearly 60 percent of schools need new roofs, walls, plumbing and heating systems or electric and power systems. Over half pose environmental concerns, such as poor ventilation, flaking paint, crumbling plaster, and nonfunctioning toilets.

Leave no child behind; is that the phrase the President has appropriated for his use? How can we expect to reform education and improve student

achievement when so many schools are crumbling? Why do we keep ignoring this growing problem? We cannot relegate it to the back burner. We must ensure that our schools are safe and modern and that we have modern technology.

Too often I hear the argument this is a problem for the local school districts to handle.

□ 1830

Mr. Speaker, too often I hear the argument that this is a problem for the local school districts to handle. However, local school districts cannot handle this problem alone. Property tax payers are beleaguered by the costs of a growing student population. The repairs are just too expensive. According to the GAO, the cost of needed repairs is on order of \$127 billion.

Mr. Speaker, with this motion to recommit, we are asking for merely a fraction of that amount, \$2 billion to help our schools most in need. This will not kill the bill. That is not our intent.

Mr. Speaker, I am a strong supporter of the bill and intend to vote for final passage; but, I urge my colleagues to support this very important motion to recommit so we can deal with this pressing national problem.

Mr. OWENS. Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Ohio is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, with all due respect to the gentleman from New York (Mr. OWENS) and the gentleman from New Jersey (Mr. HOLT), I think that a motion to recommit that would bring an additional \$2 billion worth of authorization to this bill, a 10 percent increase over the current level in the bill, is unwise.

Mr. Speaker, when we talk about school construction and the need for school buildings in America, the gentleman from New Jersey and the gentleman from New York could be no more right. There is a great need. But we all know that school construction has been a province of State and local governments since our inception.

As a matter of fact, State governments over the last 10 years or so have increased funding for school construction by some 39 percent, and today every State has a huge budget surplus.

In my own State, Ohio, from a State standpoint, never got involved in school construction until the last several years, and the State has been helping low-income districts in my State to provide this.

But I do not think that at this point in time we ought to do this. Here is one big reason: All of the programs that we have agreed to and the funding levels that we have agreed to in the base bill are there. If we expect to work with our appropriators to get most of those authorizations funded, the last thing

we want to do is to open it up for more disparate funding.

We have a serious education proposal on the floor which has been put together on a bipartisan basis. Let us reserve the precious funds that we can get out of the appropriation process to fund that program to ensure that it works. Where does that money go? It goes to low-income schools and high-poverty students who need this money the most.

Mr. Speaker, I yield to the gentleman from Georgia (Mr. ISAKSON) who has worked on this proposal in the past.

Mr. ISAKSON. Mr. Speaker, as we are poised to make a substantial improvement in public education, let us not end by making a hollow promise to public education.

The gentlemen are correct that their proposal represents but a fraction, and I mean a fraction, of the need.

But if the Congress of the United States ever sent the message to the public we will take care of that construction, we will do more damage to public education. Voters will not pass bond referendums. Local options, sale taxes will not be passed, and the capital investments will not be made by the local schools.

Let us leave no child behind. Let us make sure that the poorest and the most disadvantaged have the advantage of this bill. Let us reject the motion to recommit. Instead of making this hollow promise, let us make a promise to the children of America and improve their education forever. I urge my colleagues to vote "no" on the motion to recommit.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. OWENS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 223, not voting 3, as follows:

[Roll No. 144]

AYES—207

Abercrombie	Borski	Coyne
Ackerman	Boswell	Cramer
Allen	Boucher	Crowley
Andrews	Boyd	Cummings
Baca	Brady (PA)	Davis (CA)
Baird	Brown (FL)	Davis (FL)
Baldacci	Brown (OH)	Davis (IL)
Baldwin	Capps	DeFazio
Barcia	Capuano	DeGette
Barrett	Cardin	Delahunt
Becerra	Carson (IN)	DeLauro
Bentsen	Carson (OK)	Deutscher
Berkley	Clay	Dicks
Berman	Clayton	Dingell
Berry	Clement	Doggett
Bishop	Clyburn	Dooley
Blagojevich	Condit	Doyle
Blumenauer	Conyers	Edwards
Bonior	Costello	Engel

Eshoo	Lee	Rahall
Etheridge	Levin	Rangel
Evans	Lewis (GA)	Reyes
Farr	Lipinski	Rivers
Fattah	Loftgren	Rodriguez
Filner	Lowey	Roemer
Ford	Lucas (KY)	Ross
Frank	Luther	Rothman
Frost	Maloney (CT)	Roybal-Allard
Gephardt	Maloney (NY)	Rush
Gonzalez	Markey	Sanchez
Gordon	Mascara	Sanders
Green (TX)	Matheson	Sandlin
Gutierrez	Matsui	Sawyer
Hall (OH)	McCarthy (MO)	Schakowsky
Harman	McCarthy (NY)	Schiff
Hastings (FL)	McCollum	Scott
Hill	McDermott	Serrano
Hilliard	McGovern	Sherman
Hinchey	McIntyre	Shows
Hinojosa	McKinney	Skelton
Hoefel	McNulty	Slaughter
Holden	Meehan	Smith (WA)
Holt	Meek (FL)	Snyder
Honda	Meeks (NY)	Solis
Hooley	Menendez	Spratt
Hoyer	Millender-	Stark
Inslee	McDonald	Stenholm
Israel	Miller, George	Strickland
Jackson (IL)	Mink	Stupak
Jackson-Lee	Mollohan	Tanner
(TX)	Moore	Tauscher
Jefferson	Moran (VA)	Thompson (CA)
John	Morella	Thompson (MS)
Johnson (CT)	Murtha	Thurman
Johnson, E. B.	Nadler	Tierney
Jones (OH)	Napolitano	Towns
Kanjorski	Neal	Traficant
Kaptur	Oberstar	Turner
Kennedy (RI)	Obey	Udall (CO)
Kildee	Oliver	Udall (NM)
Kilpatrick	Ortiz	Velazquez
Kind (WI)	Owens	Waters
Kleczka	Pallone	Watt (NC)
Kucinich	Pascarell	Waxman
LaFalce	Pastor	Weiner
Lampson	Payne	Wexler
Langevin	Pelosi	Woolsey
Lantos	Phelps	Wu
Larsen (WA)	Pomeroy	Wynn
Larson (CT)	Price (NC)	

NOES—223

DeMint	Horn
Diaz-Balart	Hostettler
Doolittle	Houghton
Dreier	Hulshof
Duncan	Hunter
Dunn	Hutchinson
Ehlers	Hyde
Ehrlich	Isakson
Emerson	Issa
English	Istook
Everett	Jenkins
Ferguson	Johnson (IL)
Flake	Johnson, Sam
Fletcher	Jones (NC)
Foley	Keller
Fossella	Kelly
Frelinghuysen	Kennedy (MN)
Gallagher	Kerns
Ganske	King (NY)
Gekas	Kingston
Gibbons	Kirk
Gilchrest	Knollenberg
Gillmor	Kolbe
Gilman	LaHood
Goode	Largent
Goodlatte	Latham
Goss	LaTourette
Graham	Leach
Granger	Lewis (CA)
Graves	Lewis (KY)
Green (WI)	Linder
Greenwood	LoBiondo
Grucci	Lucas (OK)
Gutknecht	Manzullo
Hall (TX)	McCrery
Hansen	McHugh
Hart	McInnis
Hastert	McKeon
Hastings (WA)	Mica
Hayes	Miller (FL)
Hayworth	Miller, Gary
Hefley	Moran (KS)
Herger	Myrick
Hilleary	Nethercutt
Hobson	Ney
Hoekstra	Northup

Norwood	Roukema	Tancred
Nussle	Royce	Tauzin
Osborne	Ryan (WI)	Taylor (MS)
Ose	Ryun (KS)	Taylor (NC)
Otter	Sabo	Terry
Oxley	Saxton	Thomas
Paul	Scarborough	Thornberry
Pence	Schaffer	Thune
Peterson (MN)	Schrock	Tiahrt
Peterson (PA)	Sensenbrenner	Tiberi
Petri	Sessions	Toomey
Pickering	Shadegg	Upton
Pitts	Shaw	Vitter
Platts	Shays	Walden
Pombo	Sherwood	Walsh
Portman	Shimkus	Wamp
Pryce (OH)	Shuster	Watkins
Putnam	Simmons	Watts (OK)
Quinn	Simpson	Weldon (FL)
Radanovich	Skeen	Weldon (PA)
Ramstad	Smith (MI)	Weller
Regula	Smith (NJ)	Whitfield
Rehberg	Smith (TX)	Wicker
Reynolds	Souder	Wilson
Riley	Spence	Wolf
Rogers (KY)	Stearns	Young (AK)
Rogers (MI)	Stump	Young (FL)
Rohrabacher	Sununu	
Ros-Lehtinen	Sweeney	

NOT VOTING—3

Cubin	Moakley	Visclosky
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□ 1852

Messrs. PETERSON of Minnesota, RADANOVICH, GILMAN and SCHAFER changed their vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERMISSION FOR CHAIRMAN AND RANKING MEMBER OF COMMITTEE ON EDUCATION AND THE WORKFORCE TO ADDRESS THE HOUSE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that it be in order for the Chair to recognize myself and the gentleman from California (Mr. GEORGE MILLER) to address the House each for 5 minutes.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, I want to begin by thanking everybody in the House for their patience as we deliberated this bill. I also want to begin by thanking staffs on both sides of the aisle for all of their very difficult and hard work. We have spent 2 days deliberating this bill on the floor. The staff of this committee has spent 4 months, along with members of the working group on both sides of the aisle.

I want to thank the Members of the working group on our side of the aisle, the gentleman from Michigan (Mr. KILDEE), the gentlewoman from Hawaii (Mrs. MINK), the gentleman from Indiana (Mr. ROEMER), for all of their help on this and on the other side, the gentleman from California (Mr. McKEON) and the gentleman from Georgia (Mr. ISAKSON), the gentleman from Colorado (Mr. TANCREDO) and the gentleman from Delaware (Mr. CASTLE) for all of their effort to bring the Members together to talk about whether or not

there was a possibility of getting the legislation that, in fact, would reflect what many Members in this House have said they wanted for our education system, for the Federal participation in our education system, for many years, but we have not achieved.

Some 35 years ago, we set out to see whether or not the Federal Government could help the poorer children in this Nation residing in the poorer school districts in this Nation. We have spent \$120 billion, and in many instances we have changed the lives of those children and their education, but we have not achieved all that we have wanted to achieve. We have made a difference in many ways, but we have also had our disappointments.

This effort and this legislation is an effort to do it in a different fashion, to hold schools more accountable; and I do not mean accountable just in the sense of testing or just in the sense of money, but accountable for results. We are no longer going to ask schools how is the average child doing in their district. In this legislation, we are going to ask how each and every child in that district is doing, how is each Hispanic child, every African American child, every rich child, poor child, limited English-proficient child, how are they doing.

We are also going to ask them whether or not the gap is being closed that exists today in education between the majority and minority in America.

That question has not been asked. We have put out the money there to get the results, but we never asked them whether or not it was taking place; and in fact, the gap to some extent has widened.

We also said we are going to hold them accountable because we are going to ask for annual testing and annual assessment, a diagnostic effort so if a child is falling behind in second or third grade in reading we know the resources that we can attach that that child needs. Do they need a Saturday school? Do they need after-school? Do they need a mentor? Do they need a tutor? So that, in fact, children do not fall behind.

Many on my side of the aisle said that is all well and good and we have always been for that; but if we do not have the resources, we cannot obtain it. So we also made a commitment in this legislation, through a very lot of hard and very difficult negotiations, that, in fact, the resources would be there; that the resources would be there to fix the failing schools and not abandon them; the resources would be there to help align the test to the curriculum and improve many of the tests in States today that are not acceptable to challenge our children; to improve the curriculum. Those are the efforts we would make, and we just reaffirmed those figures on this floor on a huge bipartisan vote of 324 in support of those resources being there. That is a commitment to this legislation. We are not going to try to reform this system on the cheap.

Some on this side of the aisle said we have to have more flexibility, we have to have Straight A's down to the States. We thought, why would we give money to the States? Why can it not go locally? I could not work it out, probably because I am very much against that kind of effort. But the gentleman from Indiana (Mr. ROEMER), the gentleman from California (Mr. DOOLEY), the gentleman from Delaware (Mr. CASTLE), the gentleman from Georgia (Mr. ISAKSON) and others got together and the staffs got together; and they hammered out something that I think is superior.

We said, fine, we will give local districts flexibility, and we have increased the flexibility ten times what it is in current law so that they can set some priorities about whether they want to train the teachers first to become proficient in computers and then buy the computers, or whether they want to buy the computers and then train the teachers. That is their decision. They can combine these monies based upon their local needs and priorities. Ten times the flexibility that we have ever experienced in Federal law.

I think it is an experiment, and we will see. Other people are very confident about it. Anyway, that is what a compromise is. That is what a compromise is.

□ 1900

There are some places we could not go. Clearly, this caucus was not going to go for vouchers and it was not going to go straight As, and we did not go there. But we have tried to provide alternatives and responses to that. We have said that if a school is failing, a parent can, in fact, go out and purchase, purchase those services to tutor a child, to provide the kind of remedial help that may be necessary, and they go out in the community and get those services from private vendors. That is an important change. It is a very important change, especially when we see what technology is bringing to bear for the educational problems of our children, the technology that the private sector is developing. We have to call those resources in and make them available to the parents, and that is what this legislation does.

If I just might, Mr. Speaker, if I just might add that I think this is legislation that does very well by America's children. It is not everything I would do, it is not a bill I would write and it is certainly not a bill that the gentleman from Ohio (Mr. BOEHNER), the chairman of the committee would write, but it is a bill that we were capable of writing, trying to keep in mind what all of us have said when we go home to our districts.

We are not all going to be happy and we have a long way to go before the end of this road. But I think this is a very good beginning for a House of Representatives as a statement of where we should be on education.

Finally, I want to thank the gentleman from Ohio (Mr. BOEHNER), our

chairman, who provided exceptional leadership. He acted with honor. His word was his bond and he opened up lines of communication that we have not had available to us before. I want to say how much I appreciate that and I thank him very much for that effort.

Mr. Speaker, I encourage all of my colleagues to support this bill.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Ohio (Mr. BOEHNER) is recognized for 5 minutes.

Mr. BOEHNER. Mr. Speaker, I thank my colleagues for their patience as we have gone through what really has been, I think, an extraordinary process. It all started last December when our new President-elect invited a bipartisan, bicameral group of Members to Austin, Texas to talk about his desire for dealing with the issue of education in an honorable, up-front and positive way. It was a step that many of my colleagues on our side of the aisle were somewhat uncomfortable with, a step that many of my colleagues on the other side were uncomfortable with as well. But the President laid out his agenda in great detail, and the Members of the House and the Senate that were there all had their opportunity to put their fingerprints on how this path was going to be started, and they did it in Austin, Texas.

Mr. Speaker, the gentleman from California (Mr. GEORGE MILLER) was not on the list to be invited, but he ended up on the list at my insistence, because if the President was serious about having a new tone in Washington and if the President was serious about working together in a bipartisan way, it was right for the President to invite the gentleman from California (Mr. GEORGE MILLER) to Austin, Texas, and he did. And after the President spoke, all of the Members spoke, and the gentleman from California (Mr. GEORGE MILLER) was the last person to speak. The gentleman stood up and said, Mr. President, I think you are serious about helping underprivileged children in America. And if you are serious about helping underprivileged children in America, and you are willing to stand up and fight for accountability, I am going to be standing right there with you, and he has, each and every step along the way, and I want to say to the gentleman from California, "thank you."

Now, as the gentleman from California (Mr. GEORGE MILLER) pointed out, there were people who helped, there were a lot of people who helped. The gentleman from Delaware (Mr. CASTLE); the gentleman from California (Mr. MCKEON), the subcommittee chairman; the gentleman from Georgia (Mr. ISAKSON); and even the gentleman from Colorado (Mr. SCHAFFER), my good friend, who is hiding way in the back, were Members on our side who sat in rooms for months, as well as the gentleman from Michigan (Mr. KILDEE) and the gentlewoman from Hawaii (Mrs. MINK) and the gentleman from Indiana (Mr. ROEMER), and

all of our staffs who have done a very good job. I really do want to thank them for all of what they have done.

Mr. Speaker, we stand here at this moment on the threshold of the most significant change in Federal education policy in 35 years. We all know the money that we have spent, we all know the results that we have gotten, but we have a problem in America, and every one of us knows it; every one of us. We have an achievement gap that exists between Anglo students and their minority peers that has widened over the last 10 years, while we have had the best economy in the history of our country.

We have a growing achievement gap that exists between middle income and upper income schools than our minority and lower income schools. Good schools have gotten better over the last 10 years. Middle income schools have gotten better over the last 10 years. Our worst schools, unfortunately, have gotten worse.

We as a society cannot turn a blind eye to this problem. The President has made it perfectly clear over the last 4 months that we have to act. So, we have acted, and we have done it in a way that we can work together on both sides of the aisle to address all of the Members' concerns. This truly is a bipartisan bill. There are issues that my Democrat colleagues do not like in this bill, I know that, and I can tell my colleagues that there are problems with my guys on this side of the aisle, and I can show my colleagues the wounds of my back to prove it. But bipartisanship means working together for the benefit of the whole, and I can tell my colleagues that the bill that we have before us today is a solid achievement for this House. It is a solid achievement that will improve the lives of the neediest children in our country.

Those who are at the bottom of the economic ladder who today are not getting a good education in our society will suffer if we do not step up and have the courage, the courage to take this step, and that is really what this bill today is all about. Do we have the courage as conservative Republicans to stand up and take a step in the direction that some of us are a bit uncomfortable with? And, to my colleagues on the other side of the aisle, do they have the courage to stand up today and to take a step toward bipartisanship, toward an effort that truly will help the neediest students in our country.

I have talked to virtually all of my colleagues over the last several months about this bill. Everyone has had their opportunity for input. Yes, some are disappointed. But I think each and every one of my colleagues know that unless we exhibit courage today, that this will not happen. We need it to happen. We need to exhibit the courage and show the American people that we can work together to solve the problems that we have in this country. Remember, when we vote today, this is not about the House, and it is not

about this bill, it is about the neediest children in America who are counting on us today.

Mr. SCHAFFER. Mr. Chairman, I submit for the RECORD "An Evaluation of the Florida A-Plus Accountability and School Choice Program. The report was prepared by Jay P. Greene, Ph.D., Senior Fellow, The Manhattan Institute for Policy Research and research associate, Program on Education Policy and Governance, Harvard University.

ABOUT THE AUTHOR

Jay P. Greene is a senior fellow at the Manhattan Institute for Policy Research and a research associate at Harvard University's Program on Education Policy and Governance (PEPG). He has conducted evaluations of school choice program in Milwaukee, Cleveland, Charlotte, and San Antonio. He has also investigated the effects of school choice on civic values and integration. His publications include the chapters, "Civic Values in Public and Private Schools," and "School Choice in Milwaukee: A Randomized Experiment," in the book, *Learning from School Choice*, published by the Brookings Institution in 1998; "The Effect of Private Education on Political Participation, Social Capital, and Tolerance," in the Fall 1999 issue of *The Georgetown Public Policy Review*; and "The Texas School Miracle Is for Real," in the Summer 2000 issue of *City Journal*. He has been a professor of government at the University of Texas at Austin and the University of Houston. He received his Ph.D. from the Government Department at Harvard University in 1995. Dr. Greene lives with his family in Weston, Florida.

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EXECUTIVE SUMMARY

By offering vouchers to students at failing schools, the Florida A-Plus choice and accountability system was intended to motivate those schools to improve their academic performance. Under this plan, each public school in Florida is assigned a grade, A through F, based on the proportion of its students passing the Florida Comprehensive Assessment Test (FCAT). Students attending schools that receive two "F" grades in four years are eligible to receive vouchers that enable them to attend private schools or to transfer to another public school.

This report examines whether schools that faced the prospect of having vouchers offered to their students experienced larger improvements in their FCAT scores than other schools.

The results show that schools receiving a failing grade from the state in 1999 and whose students would have been offered tuition vouchers if they failed a second time achieved test score gains more than twice as large as those achieved by other schools. While schools with lower previous FCAT scores across all state-assigned grades improved their test scores, schools with failing grades that faced the prospect of vouchers exhibited especially large gains.

The report also establishes that the FCAT math and reading results are highly cor-

related with the results from a nationally recognized standardized test, the Stanford 9, which suggests that the FCAT is a reliable measure of student performance.

This report shows that the performance of students on academic tests improves when public schools are faced with the prospect that their students will receive vouchers. These results are particularly relevant because of the similarities between the Florida A-Plus choice and accountability system and the education initiatives proposed by President George W. Bush.

The Purpose of the Study

The Florida A-Plus Program is a school accountability system with teeth. Schools that receive two failing grades from the state during a four-year period have vouchers offered to their students so that those students can choose to leave for a different public or private school. The theory behind such a system is that schools in danger of failing will improve their academic performance to avoid the political embarrassment and potential loss in revenues from having their students depart with tuition vouchers.

Whether the theory behind the A-Plus Program is supported by evidence is the issue addressed in this evaluation. While it is plausible that the incentives provided by an accountability system with teeth should be an impetus for reform, it is also plausible that the A-Plus system would not produce meaningful academic improvement. Perhaps schools would develop strategies for improving the grade they received from the state without actually improving the academic performance of students. Perhaps schools would not have the resources of policy flexibility to adopt necessary reforms even if they had the incentives to do so. Perhaps the incentives of the accountability system interact with the incentives of schools politics to produce unintended outcomes. In short, whether the A-Plus system is successful in improving student achievement is a matter that cannot be resolved without reference to evidence.

The evidence presented in this report suggests that the A-Plus Program has been successful at motivating failing schools to improve their academic performance. In addition, the evidence presented in this report suggests that we should have confidence that the improvement in academic achievements is a real improvement and not merely a manipulation of the state's testing and grading system.

A Brief Description of the A-Plus Program

The Florida A-Plus Program assigns each public school a grade based on the performance of its students on the Florida Comprehensive Assessment Tests (FCAT) in reading, math, and writing. Reading and writing FCATs are administered in 4th, 8th, and 10th grades, while the math FCAT is administered in 5th, 8th, and 10th grades. The scale score results from these tests are divided into five categories. The grade that each school receives is determined by the percentage of students scoring above the thresholds established by these five categories or levels. If a school receives two F grades in a four-year period, its students are offered vouchers that they can use to attend a private school. They are also offered the opportunity to attend a better-performing public school.

The FCAT was first administered in the spring of 1998. Following the second administration of the exam in 1999, only two schools in the state had received two failing grades. Both of those schools, located in Escambia County, had vouchers offered to their students. Nearly 50 students and their families from those two schools chose to attend one of a handful of nearby private schools, most of which were religiously affiliated. When

the FCAT was administered in 2000, no additional schools had their students offered tuition vouchers because none had failed for a second time.

Additional information on the FCAT and A-Plus Program can be found at the Florida Department of Education's FCAT web site at <http://www.firn.edu/doe/sas/fcathome.htm> or its home page at <http://www.firn.edu/doe/>.

Other Research on Voucher and Accountability Systems

Many states have testing and accountability systems. Some, such as the New York Regents Exam, date back many years. Others, such as the Michigan Educational Assessment Program, are relatively new. States also vary in the difficulty of the tests they administer, the grades to which tests are administered, whether passage is required for promotion or graduation, and whether sanctions or rewards are attached to student and/or school performance.

Despite the increasing prominence of testing and accountability systems as a tool for education reform, the effectiveness of those systems has been the subject of limited systematic research. Additional research in this area is particularly important given the centrality of accountability systems in many state and federal education reform proposals. The attractiveness of such proposals would be increased if stronger empirical evidence were produced to show that widespread testing and grading of schools provided incentives to schools to improve their performance. Evidence on the effects of using vouchers as a sanction for chronically failing schools would speak to whether accountability systems are likely to be more effective at inspiring improvement if vouchers were part of the program. On the other hand, evidence that widespread accountability testing produced results that were subject to manipulation or failed to inspire improvement would argue against the adoption of such policies. And if the evidence failed to show special gains produced by the prospect of vouchers at failing schools then a voucher component of the policy would be less desirable.

The greatest amount of research attention has been devoted to evaluations of the accountability system in Texas. The Texas Assessment of Academic Skills (TAAS) has been in existence for a decade and is the most comprehensive of the state testing systems. Students in Texas are tested in 3rd through 8th grades in math and reading. In addition, passage of an exam that is first offered in 10th grade is required for graduation. The state is also phasing-in requirements that students pass exams in order to be promoted to the next grade.

The extensiveness of TAAS, its centrality in education policy in Texas, and the fact that the governor was a candidate for president attracted considerable attention to the program. Linda McNeil and Angela Valenzuela of Rice University and the University of Texas, respectively, issued a report with a series of theoretical and anecdotal criticisms of TAAS, but presented no systematic data on the educational effectiveness of the program.¹ Walter Haney of Boston College has written about the relationship between TAAS and minority dropout rates, but again has not systematically evaluated the effect of TAAS on educational achievement.²

The most systematic research on TAAS has appeared in two, somewhat contradictory, reports from the Rand Corporation. The first report, with David Grissmer as its chief author, was released in July of 2000.³ It analyzed scores from the National Assessment of Educational Progress (NAEP), a test administered by the U.S. Department of Education,

to identify state policies that may contribute to higher academic performance. It found that states like Texas and North Carolina, with extensive accountability systems, had among the highest and most improved NAEP scores after controlling for demographic factors. The report featured a lengthy comparison of student performance in California and Texas to highlight the importance of TAAS in improving academic achievement, as measured by the NAEP.

The second report, with Stephen Klein as its chief author, was released in October of 2000. It cast doubt upon the validity of TAAS scores by suggesting that the results do not correlate with the test results of other standardized tests. Because the other standardized tests are "low stakes tests," without any reward or punishment attached to student or school performance, there are few incentives to manipulate the results or cheat. It is therefore reasonable to assume that the low stakes test results are likely to be a reliable indication of student performance.⁴ Schools and students, however, might have incentives and opportunities to manipulate the results of high stakes tests, like the TAAS. Because Klein finds that the results of the TAAS do not correlate very well with the results of the low stakes standardized tests, he and his colleagues suggest that the TAAS scores do not represent the true academic performance of students.

Klein, however, cannot rule out alternative explanations for the weak correlation between TAAS results and the results of low stakes standardized tests. It is possible that the TAAS, which is based on the mandated Texas curriculum, tests different skills than those tested by the national, standardized tests. Both could produce valid results and be weakly correlated to each other if they are testing different things. It is also possible that the pool of standardized tests available to Klein is not representative of Texas as a whole. The standardized test results that were compared to TAAS results were only from 2,000 non-randomly selected 5th grade students from one part of Texas. If this limited group of students were not representative of all Texas students, then it would be inaccurate to draw any conclusions about TAAS as a whole.

In addition to comparing TAAS and standardized test results, Klein and his colleagues also analyzed NAEP results in Texas. Contrary to the findings of Grissmer and his colleagues whose Rand report was only released a few months earlier, Klein concluded that the NAEP performance in Texas was not exceptionally strong. This finding contradicted Grissmer's finding that strong NAEP performance in Texas confirmed the benefits of a high stakes testing system, like TAAS.⁵

A third examination of NAEP scores in Texas published in *City Journal* supports Grissmer's claim and refutes Klein's by finding that NAEP improvements were exceptionally strong in Texas while the TAAS accountability system was in place.⁶ The fact that these studies differ while all examining NAEP and TAAS results can be explained by the different time periods examined, the grade levels that are compared, and the presence or absence of controls for student demographics. Without discussing these issues at length, it is sufficient to say that there is some ambiguity regarding any conclusions that can be drawn from a comparison of NAEP and TAAS results. This ambiguity is created in part by the fact that the NAEP is administered infrequently and in only certain grade levels.

In addition to ambiguous research results, our expectations for A-Plus based on the experience of TAAS are further limited by the fact that the two accountability systems differ in one very important respect. The A-

Plus Program is unique in that it uses vouchers as the potential sanction for low-performing schools, while the accountability systems in Texas, North Carolina, and elsewhere at most threaten schools with embarrassment or reorganization as the sanction for low performance. The incentives for schools to improve when faced with embarrassment or reorganization may not be the same as the incentives produced by the prospect of vouchers.

We could try to look at recent research on school choice to learn more about whether the prospect of vouchers motivates schools to improve. Unfortunately, while there have been several high-quality studies on the effects of vouchers on the recipients of those vouchers, there has been relatively little research on whether school choice provides the proper incentives to improve academic achievement in an entire educational system.⁷ Recent work by Caroline Minter-Hoxby and by the Manhattan Institute attempt to address whether vouchers would improve academic achievement in the education system as a whole by examining variation in the amount of choice and competition currently available in the United States.⁸ Some states and metro areas have more school districts, more charter schools, and other types of choice than others. The findings of both studies suggest that areas with more choice and competition experience better academic outcomes than areas with less choice and competition. While these results support the contention that voucher systems would improve the quality of education for the entire educational system, they are not definitive because they involve argument by analogy. It is possible that competition and choice that currently exist contribute to academic achievement while expanding choice and competition would not have similar benefits. A more direct examination of the effects of expanding choice and competition would address the question more definitively.

The Design of the Current Study

The Florida A-Plus Program offers a unique opportunity to researchers to examine the effects of an accountability system as well as the effects of expanding choice and competition. Because the A-Plus Program involves a system of testing with sanctions for failure, we can examine whether such a program motivates schools to improve. And because the sanction that is applied is the prospect of offering choice to families and competition to public schools, we can examine whether the prospect of choice and competition are effective motivators.

To address these issues we will conduct two types of analyses. First, we will want to determine whether the test that is used to determine school grades in the A-Plus accountability system is a valid test of student performance. Given the concerns raised by the Klein study regarding the validity of the TAAS in Texas, we will examine the validity of the Florida Comprehensive Assessment Test (FCAT) using the same analytical technique used by Klein. That is, we will identify the correlation between FCAT results and the results of low stakes standardized tests administered around the same time in the same grade.⁹

During the spring of 2000, Florida schools administered both the FCAT and a version of the Stanford 9, which is a widely used and respected nationally normed standardized test. Performance on the FCAT determined a school's grade from the state and therefore determined whether students would receive vouchers. Performance on the Stanford 9 (or the FCAT Norm Referenced Test as the state refers to it) carried with it no similar consequences. It is therefore reasonable to assume that schools and students had little

reason to manipulate or cheat on the Stanford 9. If the results of the Stanford 9 correlate with the results of the FCAT, then we should have confidence that the FCAT is a valid measure of academic achievement. If the two tests do not correlate, one possible explanation for the low correlation would be that the FCAT results were manipulated so that they were no longer valid measures of student performance. Confirming the validity of the FCAT is important for ruling out the concerns raised by Klein and others before proceeding with other analyses.

Second, we will examine whether the prospect of having to compete to retain students who are given vouchers inspires schools to improve their performance. We would expect that the schools that had already received one F grade from the state and whose students would become eligible for vouchers if they received a second F to make the greatest efforts to improve their academic achievement. That is, if the prospect of choice and competition motivates schools to improve, then the schools that are in the greatest danger of having their students receive vouchers should experience greater test-score improvement than schools for which that prospect is not so imminent.

To test this proposition we examine the average FCAT scale score improvements for schools broken out by the grade they received the year before. If the A-Plus Program is effective, schools that had previously received an F should experience greater gains on the FCAT than schools that had previously received higher grades.

In short, the design of this study is to verify the validity of the FCAT results and then to determine whether those schools that most imminently face the prospect of having to compete to retain their students who have been offered vouchers experience the greatest gains in their FCAT scores.

Data Examined

The FCAT results examined were from the spring of 1999 and spring of 2000. The Stanford 9 results were from the spring of 2000. The Stanford 9 was not administered statewide in 1999. All test results were obtained from the Florida Department of Education.¹⁰ The FCAT was administered in 4th, 5th, 8th, and 10th grades, but not in all subjects. The Stanford 9 (or FCAT NRT, as it is described on the web site) was administered in 3rd through 10th grades, but the reading results from 10th grade were discarded because the state determined that there was a difficulty with their design. Because both kinds of tests were not available in all subjects in all grades, our analyses are confined to those grades and subjects for which results were available.

The Results of Correlating FCAT and Stanford 9 Results

It appears as if the FCAT results are valid measures of student achievement. Schools with the highest scores on the FCAT also have the highest scores on the Stanford 9 tests that were administered around the same time in the spring of 2000. It is also the case that schools with the lowest FCAT scores also tended to have the lowest Stanford 9 scores. We can know this because the school level results from both tests are highly correlated with each other.

If the correlation were 1.00, the results from the FCAT and Stanford 9 test would be identical. As can be seen in Table 1, the correlation coefficient is 0.86 between the 4th grade FCAT and Stanford 9 reading test results. In 8th grade the correlation between the high stakes FCAT and low stakes standardized reading test is 0.95.¹¹ This demonstrates an extremely high level of correlation between the tests.

TABLE 1.—VERIFYING THE VALIDITY OF THE FCAT RESULTS

Correlation between	Grade level			
	4	5	8	10
FCAT reading and Stanford 9 reading	0.86	na	0.95	na
FCAT math and Stanford 9 math	na	0.90	0.95	0.91
Number of schools	1,514	1,514	508	356

All correlations are statistically significant at $p < .01$.
na=not available.

The math results of the two tests are also highly correlated. In 5th grade the correlation coefficient is 0.90. In 8th grade the FCAT and Stanford 9 school level results are correlated at 0.95. In 10th grade the correlation between the results of the two math tests is 0.91.

It is not possible to verify the validity of the FCAT writing test with this technique because there was no Stanford 9 writing test administered.

In the second Rand Corporation study of TAAS in Texas, Stephen Klein and his colleagues never found a correlation of more than 0.21 between the school level results from TAAS and the school level results of a low stakes standardized tests. In this analysis we never found a correlation between FCAT and standardized tests below .86. All of these correlations in Florida are statistically significant, meaning that the strong relationship between the results of the two tests is very unlikely to have been produced by chance.

While we cannot check the validity of the FCAT writing results, these analyses strongly support the validity of the FCAT reading and math results. Schools in Florida perform on the high stakes FCAT similarly to how they perform on the low stakes Stanford 9. Since schools would have little incentive to manipulate the results of the low stakes test, the fact that they confirm the high stakes test results is important confirmation that the FCAT measures are credible.

FCAT Improvements by State-Assigned Grade

Now that we have confirmed the validity of the FCAT results, is it the case that schools facing the imminent prospect of competing to retain their students experienced the greatest improvement in FCAT results to avoid that prospect? In fact, the incentives appear to operate as expected. Schools that had received F grades in 1999 and were in danger of having their students offered vouchers if they repeated their failure made the largest gains between their 1999 and 2000 FCAT results.

As can be seen in Table 2, the year-to-year changes in FCAT results for schools do not really differ among schools that received A, B, or C grades from the state. Schools that had received D grades and were close to the failing grade that could precipitate vouchers being offered to their students appear to have achieved somewhat greater improvements than those achieved by the schools with higher state grades. But schools that received F grades in 1999 experienced increases in tests scores that were more than twice as large as those experienced by schools with higher state-assigned grades.

TABLE 2.—COMPARING TEST SCORE GAINS BY SCHOOL GRADE

School grade given by State in 1999	Change in FCAT Scores from 1999 to 2000		
	Reading	Math	Writing
A	1.90 (202)	11.02 (202)	.36 (202)
B	4.85 (308)	9.30 (308)	.39 (308)
C	4.60 (1223)	11.81 (1223)	.45 (1223)
D	10.02 (583)	16.06 (583)	.52 (583)
F	17.59 (76)	25.66 (76)	.87 (76)

The change for F schools compared to schools with higher grades is statistically significant at $p < .01$.

Math and reading scales are from 100 to 500.
The writing scale is from 0 to 6.
Number of schools is in the parentheses.

On the FCAT reading test, which uses a scale with results between 100 and 500, schools that had received an A grade from the state in 1999 improved by an average of 1.90 points between 1999 and 2000. Schools that had received a B grade improved by 4.85 points. Those that had a C in 1999 increased by 4.60 points. But schools that had a D grade in 1999 improved by 10.02 points. And schools that had F grades in 1999 showed an average gain of 17.59 points. The lower the grade that the school received from the state, the greater the improvement it made the following year. This improvement was especially large for schools that had received a D or F grade the previous year.¹²

Examination of the FCAT math results shows a similar pattern. Schools that had received an A grade experienced an average 11.02 point gain on a scale that ranged between 100 and 500. Schools that had a B gained by 9.30 points. Schools that had received C grades in 1999 showed 11.81 point gains, on average, between 1999 and 2000. While D schools had improved by 16.06 points from 1999 to 2000 on the FCAT math exam, schools that had received an F grade in 2000 made gains of 25.66 points. Again, the year-to-year gains achieved by schools that had previously received a D or F grade were significantly larger than those experienced by higher grade schools. The improvements realized by schools that had previously received an F grade were especially large.¹³

The FCAT writing exam, which has scores that go from 0 to 6, also shows larger gains for schools that had received an F grade. Schools that had received an A grade in 1999 improved by .36 on the writing test. Schools with a B grade had an average gain of .39. For C schools the improvement from 1999 to 2000 was .45. And for schools that had received a D grade, the improvement was .52 points on the FCAT writing exam. However, schools that had received an F in 1999 demonstrated an average gain of .87 points, about double the improvements for the other schools.¹⁴

The larger improvements achieved by schools that had received an F and were in danger of having vouchers offered to their students are all statistically significant. That is, the gains observed in the F schools differed from those in the other schools by an amount that is very unlikely to have been produced by chance.

A Hard Test of the Voucher Effect

To what extent were the gains produced by failing schools the product of the prospect of vouchers and to what extent were those improvements the product of the pressures of low performance?¹⁵ One technique for isolating the extent to which gains were motivated by the desire to avoid having students offered vouchers is to compare the improvements achieved by higher-scoring F schools to those realized by lower-scoring D schools. The idea behind this comparison is that high-scoring F schools and low-scoring D schools were probably very much alike in many respects.¹⁶ Both groups of schools had low previous scores and faced pressures simply to avoid repeating a low performance. Schools in both groups were also likely to face similar challenges in trying to improve their scores. It is also likely that a fair number of schools near the failing threshold could easily have received a different grade by chance. That is, random error in the testing may have made the difference between receiving a D or F grade for at least some of these schools. To the extent that chance is the only factor distinguishing those schools just above the failing line and those schools

just below the failing line we are approximating a random assignment experiment, like those used in medical research.

While the low-scoring D schools and the high-scoring F schools may be alike in many respects and some may only be distinguishable by chance, schools in each category faced very different futures if they failed to improve. The schools with the F grade faced the prospect of having vouchers offered to students at their school if they failed to improve significantly while D schools did not face a similar pressure. A comparison of the gains achieved by low-scoring D schools and high-scoring F schools should help us isolate the gains that are attributable to the prospect of vouchers unique to those with the failing label. This comparison is a hard test for the effect of vouchers in motivating schools to improve because we are not considering all of the failing schools who faced that pressure and we are comparing against D schools that might have experienced some pressure from the prospect of vouchers to the extent that they anticipated the consequences of their experiencing a decline in future performance.

As can be seen in Table 3, the gains realized by high-scoring F schools were greater than the gains realized by low-scoring D

schools.¹⁷ The improvement achieved by higher-scoring F schools on the reading test was 2.65 points greater than that achieved by higher-scoring F schools on the reading test was 2.65 points greater than that achieved by lower-scoring D schools, although this difference fell short of being statistically significant. On the math test the higher-scoring F schools made gains that were 6.09 point greater than those produced by lower-scoring D schools. The difference between the two groups of schools on the writing test was .16, keeping in mind that the scale for the writing test goes from 0 to 6 instead of from 100 to 500 as is the case for the reading and math exams. The differences between these groups on the math and writing tests were statistically significant at $p < .01$ meaning that we can have high confidence that these differences were not produced by chance.

These gains made by the higher-scoring F schools in excess of what were produced by the lower-scoring D schools are what we can reasonably estimate as the effect of the unique motivation that vouchers posed to those schools with the F designation. Given that the higher-scoring F schools were very much like the lower-scoring D schools, the fact that those schools that faced the prospect of vouchers made larger gains suggests

that vouchers provide especially strong incentive to public schools to improve.

The excess gains that we can attribute to the prospect of vouchers can be reported in terms of standard deviations, as is conventional in education research. The improvement on the reading FCAT attributable to the prospect of vouchers was a modest 0.12 standard deviations and fell short of being statistically significant. The voucher effect on math scores was larger 0.30 standard deviations, which was statistically significant. And the prospect of vouchers improved school performance on the writing test by 0.41 standard deviations, an effect that is also statistically significant.

To put the size of these effects in perspective, education researchers generally consider effect sizes of 0.1 to 0.2 standard deviations to be small, effects of 0.3 to 0.4 standard deviations as moderate, and gains of 0.5 or more standard deviations are thought of as large. For comparison, the effect size of reducing class sizes from an average of 25 students to an average of 17 students according to the Tennessee Star study was .21 standard deviations.¹⁸ The motivational benefits of the prospect of vouchers were larger than this class size reduction effect, at least on math and writing scores.

TABLE 3.—ISOLATING THE EFFECT OF THE PROSPECT OF VOUCHERS

	Gains in reading	Math	Writing
Lower-Scoring D Schools	12.87 (251)	18.15 (272)	0.59 (296)
Higher-Scoring F Schools	15.52 (42)	24.24 (41)	0.75 (35)
Voucher Effect	2.65	6.09	0.16
Voucher Effect Measured in Standard Deviations	0.12	0.30	0.41

Number of schools is in the parentheses.
The math and writing results are significant at $p < .01$

Discussion

The most obvious explanation for these findings is that an accountability system with vouchers as the sanction for repeated failure really motivates schools to improve. That is the prospect of competition in education reveals competitive effects that are normally observed in the marketplace. Companies typically anticipate competitive threats and attempt to make appropriate responses to retain their customers before the competition fully materializes. Similarly, it appears as if Florida schools that foresee the imminent challenge of having to compete for their students take the necessary steps to retain their students and stave off that competition.

While the evidence presented in the report supports the claims of advocates of an accountability system and advocates of choice and competition in education, the results cannot be considered definitive. First, the A-Plus Program is still relatively new and its effects might change, for the better or worse, as the program matures. Second, only two schools in the state have actually had vouchers offered to their students because the schools had received two failing grades. It remains to be seen whether the number of schools where students are eligible for vouchers grows in future years. If the number does not grow, it is possible that the prospect of having vouchers offered to students will not seem so imminent to schools and they will not face the same incentives to improve.

Third, one could offer alternative explanations for the results reported in this study. For example, critics might suggest that the findings reported in this study might be produced by manipulation of FCAT results that may be localized among schools that faced the prospect of receiving a second failing grade. That is, perhaps the high correlation between FCAT and Stanford 9 results does not verify the validity of the FCAT among F schools who may face particularly strong in-

centives to cheat or manipulate results. If one breaks out the correlations between the FCAT and Stanford 9 results by state-assigned grade and grade level of the test, however, we find that the correlations generally remain high even if we only examine F schools. As can be seen in Table 4, the correlation on the reading score is never lower than 0.77 and never below 0.79 on the math scores for F schools. And the correlations for the F schools are comparable to the correlations for schools with higher state-assigned grades. Focusing on correlations between the FCAT and Stanford 9 results only among F schools tends to refute the claim that cheating or manipulation may be localized among failing schools.

TABLE 4.—VERIFYING THE VALIDITY OF THE FCAT RESULTS FOR EACH STATE-ASSIGNED GRADE

Correlation between	Grade Level			
	4	5	8	10
A SCHOOLS				
FCAT reading and Stanford 9 reading	0.71	na	0.89	na
FCAT math and Stanford 9 math	na	0.82	0.94	0.98
Number of Schools	121	121	68	8
B SCHOOLS				
FCAT reading and Stanford 9 reading	0.48	na	0.91	na
FCAT math and Stanford 9 math	na	0.74	0.94	0.89
Number of Schools	207	207	89	12
C SCHOOLS				
FCAT reading and Stanford 9 reading	0.62	na	0.86	na
FCAT math and Stanford 9 math	na	0.79	0.89	0.87
Number of Schools	684	684	254	277
D SCHOOLS				
FCAT reading and Stanford 9 reading	0.74	na	0.87	na
FCAT math and Stanford 9 math	na	0.83	0.89	0.90
Number of Schools	436	436	92	55
F SCHOOLS				
FCAT reading and Stanford 9 reading	0.77	na	0.99	na
FCAT math and Stanford 9 math	na	0.79	0.98	0.99
Number of Schools	66	66	5	4

All correlations are statistically significant at $p < .01$.
na=not available.

As another alternative explanation critics might suggest that F schools experienced larger improvements in FCAT scores because of a phenomenon known as regression to the mean. There may be a statistical tendency of

very high and very low-scoring schools to report future scores that return to being closer to the average for the whole population. This tendency is created by non-random error in the test scores, which can be especially problematic when scores are "bumping" against the top or bottom of the scale for measuring results. If a school has a score of 2 on a scale from 0 to 100, it is hard for students to do worse by chance but easier for them to do better by chance. Low-scoring schools that are near the bottom of the scale are very likely to improve, even if it is only a statistical fluke.

In the case of the FCAT results, however, regression to the mean is not a likely explanation for the exceptional improvement displayed by F schools because the scores for those schools were nowhere near the bottom of the scale for possible results. The average F school reading score was 254.70 in 1999, far above the lowest possible score of 100. The average math score for F schools was 272.51 on the 1999 FCAT, also far above the lowest possible score of 100. And on the FCAT writing exam the average F score received a 2.40 on a scale from 1 to 6, also not likely to cause a bounce against the bottom. Given how far the F schools are from the bottom of the scale, regression to the mean does not appear to be a likely explanation of the gains achieved by F schools.

Another way to test for regression to the mean is to isolate the gains achieved by the schools with the very lowest scores from the previous year. If the improvements made by F schools were concentrated among those F schools with the lowest previous scores, then we might worry that the improvements were more of an indication of regression to the mean (or bouncing against the bottom) than an indication of the desire to avoid having vouchers offered to the students in failing schools. We can test this proposition by constructing a simple regression model that predicts the improvement in FCAT scores for

those F schools with previous test scores below average for F schools, for those F schools with previous test scores above average for F schools, and for all schools based on how low their previous scores were. The below average F schools are our proxy for a regression to the mean effect. If their gains are not significantly greater than higher-scoring F schools, then we can reasonably exclude regression to the mean as a likely explanation. All F schools should have experienced a similar motivation to improve to avoid vouchers. But if regression to the mean were operating, then the lowest-scoring F schools should have made significantly greater improvements because they would be more likely to be bouncing against the bottom of the scale.

As can be seen in Table 5, the gains achieved by low-scoring F schools are not greater than the gains achieved by higher-scoring F schools. For analyses of the reading, math, and writing results the higher-scoring F schools experienced gains comparable to those gains experienced by low-scoring F schools. This means that all F schools, whether they were "bounding" against the bottom of the scale or not, produced similar improvements. According to

these models, schools that faced the prospect of vouchers by virtue of having received an F grade made improvements on their reading FCAT that were approximately 4 points higher than would be expected simply from how low their previous score was. The exceptional gain achieved by F schools on the math FCAT was approximately 8 points and the exceptional gain on the writing FCAT was approximately one-quarter of a point on a 6-point scale. All of these results are statistically significant. These results are also consistent with the voucher effect estimated using the analyses reported in Table 3.

It was a general pattern that schools with lower previous scores made larger improvements. This effect of simply having an accountability system in place to put pressure on lower-performing schools operated across all grades, inspiring low-scoring A, B, C, and D schools to improve. But F schools made gains that were even larger than would have been expected simply given how low their previous scores were. The exceptional incentive that existed for schools that had an F grade was the desire to avoid the prospect of vouchers. We might therefore attribute this improvement realized by F schools beyond what would be expected given their low pre-

vious score as their "voucher" gain. Because higher-scoring and lower-scoring F schools experienced comparable exceptional improvements, we can have some confidence that this is a voucher effect and not a regression to the mean effect. And all schools, across all grades, faced some motivation to improve lower scores simply by virtue of having an accountability system in place.

It therefore appears as if two forces were in effect to motivate schools to improve. Schools had some motivation to improve simply to avoid the embarrassment of low FCAT scores. This motivation operated across all state-assigned grades. But schools with F scores had a second and very strong incentive to improve to avoid vouchers.

While one cannot anticipate or rule out all plausible alternative explanations for the findings reported in this study, one should follow the general advice to expect horses when one hears hoof beats, not zebras. The most plausible interpretation of the evidence is that the Florida A-Plus system relies upon a valid system of testing and produces the desired incentives to failing schools to improve their performance.

TABLE 5.—REGRESSION ANALYSES OF THE EFFECT OF PRIOR SCORES AND FAILING STATUS ON FCAT SCORE IMPROVEMENTS

Variable	Reading		Math		Writing	
	Effect	P-Value	Effect	P-Value	Effect	P-Value
Lower Previous Score	0.19	0.00	0.15	0.00	0.14	0.00
Higher-Scoring F Schools	3.92	0.02	7.93	0.00	0.23	0.00
Lower-Scoring F Schools	2.93	0.11	7.24	0.00	0.39	0.00
Constant	61.67	0.00	59.28	0.00	0.89	0.00
Adjusted R-Square	0.16		0.12		0.12	
Number of Schools	2,392		2,392		2,392	

The dependent variable is the change in FCAT scores from 1999 to 2000. P-values below .05 are generally considered statistically significant.

NOTES

1. "The Harmful Impact of the TAAS System of Testing in Texas: Beneath the Accountability Rhetoric," May 1, 2000. Available at http://www.law.harvard.edu/groups/civilrights/conferences/testing98/drafts/mcneil_valenzuela.html. Accessed most recently on December 20, 2000.

2. "The myth of the Texas miracle in education," Education Policy Analysis Archives, 8(41), August 19, 2000. Available at <http://epaa.asu.edu/epaa/v8n41>. Accessed most recently on December 20, 2000.

3. "Improving Student Achievement: What NAEP State Test Scores Tell Us," by David W. Grissmer, Ann Flanagan, Jennifer Kawata, and Stephanie Williamson, The Rand Corporation, June 25, 2000. Available at <http://www.rand.org/publications/MR/MR924/>. Accessed most recently on December 20, 2000.

4. Although low stakes also introduce the danger that students or schools will not devote sufficient effort to demonstrating their true level of performance.

5. For a critique of the Klein and Grissmer reports see Eric Hanushek, "Deconstructing RAND," Education Matters, Spring 2001. The article is available on-line at www.edmatters.org.

6. "The Texas School Miracle is for Real," by Jay P. Greene, City Journal, Summer 2000. Available at http://www.city-journal.org/html/10_3_the_texas_school.html. Accessed most recently on December 20, 2002.

7. For a summary of recent research see "A Survey of Results from Voucher Experiments: Where We Are and What We Know," by Jay P. Greene, Civic Report 11, The Manhattan Institute for Policy Research, July 2000. Available at http://www.manhattan-institute.org/html/cr_11.htm. Accessed most recently on December 20, 2000.

After that summary was written two important voucher studies were released. One is "Test-Score Effects of School Vouchers in Dayton, Ohio, New York City, and Wash-

ington D.C.: Evidence from Randomized Field Trials," by William G. Howell, Patrick J. Wolf, Paul E. Peterson and David E. Campbell, August 2000. Available at: <http://www.ksg.harvard.edu/pepg/>. The other is "The Effect of School Choice: An Evaluation of the Charlotte Children's Scholarship Fund," by Jay P. Greene, Civic Report 12, The Manhattan Institute for Policy Research, August, 2000. Available at http://www.manhattan-institute.org/html/cr_12a.htm.

8. See "Does Competition Among Public Schools Benefit Students and Taxpayers?" by Caroline Minter-Hoxby, The American Economic Review, December 2000; and "The Education Freedom Index" by Jay P. Greene, Civic Report 14, The Manhattan Institute for Policy Research, September 2000.

9. This technique addresses what is technically known as the concurrent validity of the FCAT. It does not address whether the letter grades assigned by the state are based on appropriate cutoff points in the test results. That is, this report does not address whether schools given an A in Florida truly deserve an A or whether D schools should really receive an F. To use a metaphor familiar to most students, this report only examines the validity of the test, not the validity of the curve used to assign grades.

10. The Florida Department of Education also has FCAT scores on its web site at <http://www.firn.edu/doe/cgi-bin/doehome/menu.pl>. However the web site only has scores for standard curriculum students in 1999 and all students in 2000. This study used scores for standard curriculum students in both years. Earlier analyses on these results from the web site do not produce results that are substantively different from those reported here. This suggests that the inclusion or exclusion of test scores from special needs students have little bearing on the conclusions of this evaluation.

11. The correlation between results of test averages for a school will be higher than cor-

relations between the results of individual student test scores. Nevertheless, these school-level correlations are quite high.

12. The within sample standard deviation for the FCAT reading scores is 21.94, making the gain achieved by the F schools equivalent of .80 standard deviations.

13. The within sample standard deviation for the FCAT math scores is 20.59, making the gain achieved by the F schools the equivalent of 1.25 standard deviations.

14. The within sample standard deviation for the FCAT writing scores is .39, making the gain achieved by the F schools the equivalent of 2.23 standard deviations.

15. For a case study that documents the extent to which improvements at failing schools can be attributed to the prospect of vouchers, see Carol Innerst, "Competing to Win: How Florida's A-Plan Has Triggered Public School Reform," Urban League of Greater Miami, Inc., The Collins Center for Public Policy, Floridians for School Choice, The James Madison Institute, and the Center for Education Reform, April, 2000.

16. In fact, the high-scoring F schools had slightly higher average test scores from the previous year than did the low-scoring D schools. This is possible because the state-assigned grade is determined by the percentage of students above certain thresholds on the test score, not by the average test score for the school.

17. High-scoring F schools are those with previous scores that were above average for F schools. Low-scoring D schools are those with previous scores below average for their grade.

18. Finn, J.D., and C.M. Achilles (1999), "Tennessee's Class Size Study: Findings, Implications, and Misconceptions," Education Evaluation and Policy Analysis, 21(2): 97-109.

Mr. LEVIN. Mr. Chairman, I rise in support of H.R. 1 as reported by the Committee on Education and the Workforce. This bipartisan

legislation strengthens education in this country.

As good as the bill before us is, it won't mean much if Congress does not provide the funding at the levels promised in H.R. 1. All of us need to understand what we're doing here. We are pledging a significant increase in federal resources to elementary and secondary education in this country. In exchange, local school districts will increase the emphasis on educational standards and academic results. Under this bill, school districts will be held accountable for doing so.

There is an old saying that you can't have your cake and eat it too. I am concerned that this is precisely what a majority of this House has in mind when they promise increased federal funding for education today, only to vote to lock in an oversized tax cut later this week. This is a risky gamble. The increased aid for education we're voting for today, as well as the \$1.35 trillion tax cut we will vote on later, are both predicated on future budget surplus projections that are anything but certain. The Congressional Budget Office has cautioned us that these surplus estimates are not written in stone. If we lock in an oversized tax cut, and the budget surplus evaporates down the line, there will not be enough money left to meet the promises we are making today to fund education.

Even if the surplus numbers turn out to be correct, the size of the tax cut would still threaten education funding since all of us know that the defense budget is still tentative pending completion of the Administration's strategic review. It's a near certainty that defense spending will rise by hundreds of billions of dollars beyond what is currently budgeted. The tax cut makes no allowance for this. We will have had our cake, but left our schools with crumbs and yet another unfunded federal mandate. This is the last thing we should do to our children.

Again, I urge all my colleagues to support education today by voting for H.R. 1. Just as importantly, I urge you to support education later this week when you are casting your vote on the tax cut.

Ms. KILPATRICK. Mr. Chairman, it was with great reservation that I will vote yea on final passage of H.R. 1, the Elementary and Secondary Education Act. The children of this country deserve the best education that is available, regardless of whether they attend a public or private school. I believe that there are parts of this bill that will serve these children and others that could see some improvement.

I am very pleased that this bill will double the authorization level for Title I over the next five years to \$17.2 billion. This increase in funding will assist our schools in closing the achievement gap for disadvantaged students, something which is of vital importance to the children living in cities such as Detroit. This increase will be targeted to improve low performing schools through the investment of additional help and resources. I am also encouraged by the fact that this bill will permit parents of children in low performing schools to use Title I funds to provide supplemental educational services such as tutoring, after-school programs and summer school.

My reservations in voting for the passage of this bill stem from the fact that this bill does not include funds for new school construction. There are too many schools in this country

that are falling into disrepair. Our children are crammed into overcrowded classrooms, and this bill does nothing to help resolve this problem.

I am also very concerned about the provision in this bill that requires annual math and reading testing of students in grades three through eight. I agree that testing is one way to assess the abilities of a student; however, I fear that these tests will be used to undermine schools in the inner city. Low test scores may very well lead to the closing of schools, when instead we should be providing these students with additional resources. Every child should be provided with the resources that will help them to excel academically. We must provide these children and their teachers with additional assistance and opportunities. I hope that these test results will serve to show us what schools and specific students need our assistance, and will not serve only as a reason to close down much needed schools.

In closing, I reiterate my support for the increase in Title I funding. The students in my district will directly benefit from these funds. I thank my colleagues for their support of this bill, and hope that in the future we will recognize the importance of funding new school construction as well.

Mr. WATTS of Oklahoma. Mr. Chairman, I rise today in strong support of H.R. 1 and the technical changes to the Impact Aid program. Impact Aid compensates local educational agencies for the substantial and continuing financial burden resulting from federal activities.

Impact Aid is one of the only federal education programs where the funds are sent directly to the school district, so there is almost no bureaucracy. In addition, these funds go into the general fund, and may be used as the local school district decides. As a result, the funds are used for the education of all students.

Last year, the Defense Authorization Conference Report included the Department of Education Impact Aid Reauthorization Act of 2001 which contained a small school provision that addressed some of the concerns that small school districts have had with regard to funding levels. It was the intent of the provision to recognize two public school finance facts: (1) that small schools are significantly more expensive to operate; and (2) that the changes in the proration of available funds in the 1994 Impact Aid Reauthorization devastated small schools. The small school provision provided a funding floor for small school districts with fewer than 1,000 children who have a per pupil average lower than the state average. It also guaranteed these schools receive a foundation payment of no less than 40% of what they would receive if the program were fully funded.

However, there was an oversight on the part of the framers of the current law. The option to select the higher of the state or national average was not recommended for the current law. For this reason, I support the minor modification to the small school provision. The concept of a school district having the choice between the "higher of the state average or the national average" is already used in the payment calculation for the basic impact aid support payment and the heavily impacted district payment. Therefore, this technical correction is consistent with already existing Impact Aid laws.

By increasing its support of the Impact Aid program, the federal government can assist

these schools in providing a quality education to thousands of children across the country. Therefore, I urge my colleagues to join me in supporting this bill. Millions of students depend on the Impact Aid program for a quality education. Let's not disappoint them.

Mr. BENTSEN. Mr. Chairman, I rise in support of this legislation, which provides for reauthorization of the Elementary and Secondary Education Act. While I support the underlying bill, I opposed the rule, which prevented consideration of key amendments—including School Modernization and Class Size Reduction. In addition, the rule authorized consideration of several flawed proposals, including the Arney/Boehner/DeLay school voucher amendment, the DeMint Straight A's amendment, and the Cox amendment to drastically reduce the bill's authorization levels.

This bipartisan bill represents a compromise negotiated between Congressional Democrats, Congressional Republicans, and the Bush Administration, and contains important bipartisan provisions to improve the accountability of schools and school districts. As an original cosponsor of the "3R's" legislation, I believe this compromise legislation is rightly focused on developing and implementing high standards in the core academic subject areas, while also holding schools accountable for academic achievement. This legislation also provides substantial new resources, totaling \$4 billion in additional funds for elementary and secondary education in exchange for higher standards and tough accountability rules. To ensure higher academic achievement, H.R. 1 requires students in grades three through eight to be tested annually in math and reading. While testing is not a panacea and can be counterproductive in some instances, I believe we must ensure that parents, teachers and school administrators have a reliable gauge of student development. Testing must, however, be matched with sufficient resources to ensure children who do not score well can get the assistance they need to learn. This bill moves in that direction. If a school does not make adequate progress after one year, it would have to allow students to transfer to other public schools and the school would have to pay the students' transportation costs. I believe that each of these initiatives are vital to improve public schools and student achievement, and critical components to effective school reform.

While H.R. 1 takes a positive step towards helping students achieve academically, I believe we must also reject any amendments to divert public funds to private schools and provide block grant funding to the states. I strongly oppose any attempts to divert federal funds away from public schools and to private or parochial educational institutions. Vouchers would undermine the accountability for student achievement that is a strong component of H.R. 1. Furthermore, there is no evidence that vouchers will improve achievement for disadvantaged students. Vouchers do not increase parental choice, since the choice for admission would rest with private schools. Most importantly, I believe federal funding must be invested in proven public schools that help all students.

I am also opposed to any attempt to add Straight A's provisions to this bill, which regardless of its name, would undermine the

federal role in education and would institute bad public policy. Essentially, the Straight A's proposal would block grant federal programs and erode meaningful involvement of parents and other school officials. The Straight A's provisions would take away any real accountability for how federal money is spent and severely weaken local control over the use of federal education dollars. The Straight A's proposal would allow states to block grant and use for other purposes federal funds that are now dedicated to specific national concerns, such as improving education for disadvantaged children, enhancing teacher quality, reducing class sizes and promoting high standards. Block granting federal funds will direct resources away from low income student with the greatest needs, and undermine accountability in education. I urge my colleagues to reject the Straight A's amendments offered today.

I also oppose passage of the Cox amendment, which would cut \$2.3 billion from Fiscal Year 2002 authorized funding levels and prevent any real increases above inflation in future years. Mr. Speaker, if we are to consider a reduction in spending levels, we should do so through the appropriations process, not through consideration of this bill. Instead, we should support the bipartisan authorization levels provided in H.R. 1, which includes \$5.4 billion for critical investments in ESEA programs. Without adequate resources, schools will be unable to provide real results and our nation's children will suffer as a result.

Mr. Chairman, with passage of the underlying bill, we can strengthen our commitment to improving education through support for successful and cost-effective education programs. H.R. 1 strikes an appropriate balance in improving public schools and student achievement. I urge my colleagues to support H.R. 1 as offered today, and reject the Straight A's and school voucher amendments.

Mr. REYES. Mr. Chairman, I rise today in strong opposition to any amendment that would allow block granting of federal education programs, including Title I. There are various problems associated with some of the amendments that my colleagues are offering to H.R. 1, legislation that would reauthorize the Elementary and Secondary Education Act (ESEA). As you know, Title I of the ESEA provides targeted federal resources to help ensure that disadvantaged students have access to a quality education. The block granting of programs under Title I and other titles of the bill dilutes targeting for special needs populations. This would result in significant funding shifts among localities and would weaken accountability of federal funds.

For example, in Title III of H.R. 1, the current Bilingual Education Act (BEA), Emergency Immigrant Education Program (EIEP), and the Foreign Language Assistance Program (FLAP) are consolidated into one formula driven state grant. I oppose consolidation of these three programs because it would dilute federal resources to serve three distinct and separate student populations. Given the rising number of limited English proficient (LEP) students and the diverse needs of recent immigrant students, local schools need a targeted amount of federal resources to provide adequate services to each group.

BEA provides startup funds for schools to develop quality services for LEP students,

whereas EIEP reimburses schools for the extra costs associated with helping newly arrived immigrant students succeed in school—services that go far beyond language classes. Finally, the third program to be consolidated under Title III is FLAP, which helps native English speaking students learn a foreign language. Consolidation ignores the distinctiveness of each of these programs and dilutes the funds available to students in need.

Mr. Chairman, while I applaud the bipartisan support for this legislation, I ask my colleagues to oppose any amendments that would consolidate federal funds into state block grants.

Mr. CRANE. Mr. Chairman, I want to praise President Bush for putting forth an education plan that offered children in failing schools a chance to get a better education. It is too bad that Democrats and supporters of the failing status quo were allowed to gut the legislation, H.R. 1, at the Committee level to remove any chance for failing schools to successfully improve their performance or to let parents have the option to move their children to better schools.

I believe that control of education should be retained at the local level. Last year, Illinois high school students led the nation in Advanced Placement scores. With a few exceptions we have good schools in the 8th District and I don't want to force local parents, school boards, and teachers into a one-size fits all approach that might work in New York City or Atlanta but not in Barrington or Wauconda.

One of the reasons I support tax relief, including eliminating the marriage tax penalty and doubling the child tax credit, is because it lets 70,000 married couples and families with 125,000 children in the 8th District of Illinois keep \$162 million per year in their pockets. That is \$162 million per year that families could spend in our district on education if they chose to do so.

When we send a dollar to the federal government from Illinois, we only get 73 cents back. In my district, we send more than \$2 to Washington and only get a dollar back. With a return like this, it is easy to see why I support letting taxpayers keep more of their hard earned money and having parents decide locally how their money should be spent on education.

I believe the best way to improve education is to return dollars and decisions back home to the parents and teachers who know our children's names and their educational needs. That is why I am a cosponsor of The Dollars to the Classroom Act, a bill that directs federal elementary and secondary education funding for 31 programs directly to public school classrooms of this country.

Federal education funding is at an all-time high, and H.R. 1 increases it by a huge amount, yet student achievement continues to lag. Most Republicans in Congress want to give local schools more freedom to use new models to solve old problems while maintaining high accountability standards. H.R. 1 in its current form does not come close to accomplishing this worthy goal.

Former President Ronald Reagan, in a March 12, 1983 radio address to the nation on education, said, "Better education doesn't mean a bigger Department of Education. In fact, that Department should be abolished. In-

stead, we must do a better job teaching the basics, insisting on discipline and results, encouraging competition and, above all, remembering that education does not begin with Washington officials or even State and local officials. It begins in the home, where it is the right and responsibility of every American."

The legislation now before the House heads in the other direction. It continues increasing the amount of taxpayer money sent to the bureaucrats at the Department of Education while, as President Reagan said in his radio address, "our traditions of opportunity and excellence in education have been under siege. We've witnessed the growth of a huge education bureaucracy. Parents have often been reduced to the role of outsiders."

One concept that has strong support from parents is President Bush's proposal to improve public education by testing children in reading and math in grades three through eight once each year. Under President Bush's proposal, schools would be held accountable for either improving scores within three years or losing their federal money, which accounts for seven cents of every education dollar. The rest comes from states and localities.

I voted against the amendment co-sponsored by Congressmen PETER HOEKSTRA and BARNEY FRANK to remove President Bush's test requirement from the bill. The tough new testing regimen designed to identify failing public schools—an idea at the heart of President Bush's education plan—survived when the amendment failed. But the rest of the President's plan to give local schools more control to make the changes necessary to improve and to give parents the option to move their children to a better school were stripped out of the bill.

For the reasons I have outlined, I decided to vote against H.R. 1. I want to praise President Bush for his leadership in proposing creative solutions to improving the education of our children. I encourage him to continue to move the federal government out of the way and to give schools more flexibility and parents more choices for their children.

Mr. STARK. Mr. Chairman, I rise today in support of H.R. 1, the No Child Left Behind Act of 2001.

I want to commend Representative GEORGE MILLER and the Committee on Education and the Workforce for reporting out a bill that will help to improve this nation's elementary and secondary education system by making students a priority, by providing school accountability and by giving financial support to our schools to train and recruit quality teachers.

H.R. 1 provides a clear signal that this Congress has prioritized children's education. It provides \$5.5 billion of valuable new resources in Fiscal Year 2002 over the previous year for elementary and secondary education. More specifically, it builds upon the Federal commitment to ensure that children from disadvantaged families get an opportunity to receive a quality education by doubling the funding for the Education for the Disadvantaged Program over the next 5 years.

The bill also maintains the Federal commitment to expand quality after school programs by increasing funding for the 21st Century Learning Center After School program. Furthermore, it

provides additional funding to help our children learn in safe school environments by authorizing more funding for the Safe and Free Drug Schools.

H.R. 1 helps to create a strong school accountability system by providing new funds to states to develop statewide educational standards and standardized student tests. These standards and tests will give parents information so that they can measure the quality of education that the school system is providing for their children. Parents are also empowered to monitor the quality of their children's education through this bill's requirement that states, local school agencies and schools must issue report cards to parents on aspects of school performance and teacher's qualifications.

This legislation signals to teachers that the federal government supports their efforts to educate our children by providing almost \$2 billion in new resources for teacher training, recruitment and school class size reduction next year.

I also support this bill for the provisions that are left out. I am pleased that this Congress made the wise decision to reject private school vouchers. At the moment, public schools are underfunded. Diverting resources to a few students so that they can go to private schools does not resolve the issue of creating an excellent educational system for all students. At best, the capacity of private schools can only accommodate a small proportion of students' educational needs at the expense of fewer resources for all students.

Although this bipartisan bill is encouraging, I am concerned that the legislation that Congress passes today will not get the necessary appropriated funds for schools to implement it. A few weeks ago, the Majority passed a Budget Resolution that only increased education by \$0.9 billion for next year. This amount is far short of the \$5.5 billion of additional resources authorized for this legislation next year. I hope that my colleagues in the Majority who vote for this bill put their money where their mouths are by appropriating the necessary funds to implement this bill. Otherwise, this bill will become another hollow promise.

I urge my colleagues to support H.R. 1 and help to create an education system that puts students first, creates strong school accountability and provides valuable financial support to improve teacher quality.

Mr. MOORE. Mr. Chairman, I rise today to express both my support and concern for provisions of H.R. 1, the Leave No Child Behind Act.

Since taking office, President Bush has made education reform legislation a centerpiece of his administration's domestic policy. I sincerely believe that the President has the very best of intentions to address real problems in our nation's schools.

The legislation before us today represents a great departure from current federal education policy—a policy that contains more than 50 duplicative programs and funding streams and burdens our administrators with paperwork. H.R. 1 provides unprecedented flexibility to local school districts, while retaining the over-

all purpose behind federal funding by targeting it to the students and districts that need them the most. It reduces the paperwork burden currently imposed by federal programs so that school administrators have time to do what they were hired to do—educate our kids.

I am extremely concerned, however, with the provision of the bill mandating yearly testing in grades 3 through 8. Administrators, parents and teachers in my district have expressed concern to me regarding the testing provisions of H.R. 1. They point out that Kansas currently tests students in order to determine progress and close the achievement gap. I understand that the President believes that yearly testing is absolutely essential to tracking student performance and promoting accountability. I share his belief that we should closely track the progress of students, but I am very concerned that this bill does not include adequate funding for school districts to implement the tests yearly. I understand that administering these tests could cost the state of Kansas nearly \$10 million per year, a sum that is not adequately provided for in this bill or in the President's budget.

Recently, the Kansas State Legislature completed its business for the year, having faced a revenue shortfall of over \$200 million, directly resulting in a lack of adequate funding for Kansas schools. Even Governor Graves, reflecting on large tax cuts of previous years, recommended a tax increase to meet the revenue shortfall for education funding. Unfortunately, the Governor's proposal failed and the State Legislature has still not adequately funded education in Kansas.

Like the Individuals with Disabilities Education Act, I am extremely concerned that this bill, although well-meaning, will shift an additional unfunded financial burden to local school districts that are already struggling. We in Congress need to accept that real education reform will require a substantial investment on the federal level, and not a cost-shifting strategy that leaves local school districts holding the bag.

A serious dialogue needs to begin, between Congress, the public, and those concerned with the quality of education about the value and efficacy of testing, the frequency of testing and the need for local authority for testing. We in Congress should listen to the concerns of teachers, administrators and parents about "over-testing" and incentives to "teach to the test." These concerns are often easily dismissed, but I believe that they are valid and have not been adequately addressed by those who support yearly testing.

The White House has made it clear that without the testing component, this bill would not be signed into law. Knowing this, I voted against the Hoekstra/Frank amendment to strip the testing provisions from the bill, despite grave reservations about the testing component. I am supporting this bill because I believe that it is fundamentally sound and bipartisan. It greatly improves current law by providing increased flexibility to local school districts while maintaining the federal focus on disadvantaged students. I support, and wish to encourage, the efforts of the President and the

Democratic and Republican leaders who have worked together on this legislation. Drafting legislation is a very difficult process, and I doubt that all parties involved will ever be completely satisfied with the final product. The bill is not perfect, but it is extremely good, and I think it would be a mistake to sacrifice the careful balance of the underlying bill and go back to the drawing board.

I believe that this bill can be further improved, before it arrives on the President's desk, by addressing the valid concerns that I have mentioned. I will continue to work with my colleagues on the conference committee to ensure that the concerns of my school administrators, teachers and parents are addressed.

Mr. LANGEVIN. Mr. Chairman, I rise to commend my colleagues on the Education and the Workforce Committee for crafting a bill that contains landmark investments in education and prioritizes disadvantaged children and low-performing schools.

In total, H.R. 1 authorizes \$22.8 billion, about \$5 billion more than was appropriated in fiscal year 2001. This bill creates new accountability systems that hold our schools responsible for delivering the first-rate education that our children deserve. It tackles the problem of illiteracy by creating two new reading programs and authorizing them at three times the level of past programs. H.R. 1 gives children more personal attention and improves teacher quality by almost doubling funding for class size reduction and professional development for teachers. It authorizes \$11.5 billion for Title I in 2002 with increases over five years that amount to almost twice the 2001 level. Finally, H.R. 1 rejects both vouchers, which would drain resources from public schools, and "Straight As," which would politicize education and deny critical funding to the students who need the money most.

In sum, H.R. 1 is a remarkable measure. My only fear is that the budget we were forced to vote on last week so binds our hands that we will not be able to keep our promises. By enacting a \$1.35 trillion tax cut and a four percent cap on discretionary spending increases, we have virtually guaranteed that we will not adequately fund all the programs we are about to authorize. Mr. Speaker, reforms without resources will not produce results.

I ask my colleagues to vote in favor of H.R. 1. However, we must all remember that our job is not over until we meet these obligations during the appropriations process.

Mr. GRAHAM. Mr. Chairman, today the House of Representatives passed H.R. 1, the No Child Left Behind Act. After having voted against this legislation in the Education and Workforce Committee, today I supported President Bush, Chairman BOEHNER, and Ranking Member MILLER and voted in favor of this legislation.

I remain concerned that H.R. 1 does not grant local school districts, teachers and parents the degree of flexibility originally contained within President Bush's education plan. Yet, I also feel this legislation was honestly debated and voted upon on the House floor. I

am hopeful that through the continuing work of Congress and the Conference Committee on H.R. 1, that certain aspects of the President's original plan will be reinforced or reinserted.

I look forward to working with the President and Members of Congress to further improve this legislation.

Mr. BLUMENAUER. Mr. Chairman, today, I will vote against two amendments to H.R. 1, the Leave No Child Behind Act. In a bill that is heralded for promoting greater local decision making authority, both of these amendments are efforts to impose federal mandates and place strings on schools districts eligible for previous federal dollars.

Mr. Vitter's amendment to mandate that public schools receiving ESEA dollars allow military recruiting is currently playing out at the local level in my district. Last night, the Portland School Board voted to continue a ban on military recruiters on schools grounds. Military service is a rewarding career and vital to our national interests. The information recruiters provide can be very helpful to many students. But, it's local school districts and their locally elected school boards, not politicians 3000 miles away, that should decide whether or not the military should be allowed to recruit on school grounds.

Similarly, the Hilleary Amendment seeks to overturn school district decisions to deny access to organizations that discriminate by mandating that schools which receive Federal funding allow Boy Scouts to meet on their premises. Personally, I agree with the decisions of local school districts to ban organizations that engage in discriminatory practices from school grounds, but, more importantly, I will vote against this amendment because these types of decisions should be made by local government entities, not the Federal Government.

Mr. Chairman, today I will, however, vote in favor of H.R. 1, the Leave No Child Behind Act. Since coming to Congress my goal has been to ensure that the Federal Government is a better partner in building more livable communities. Access to quality public education is a key component of a community that is safe, healthy and economically secure.

While not perfect, H.R. 1, as passed out of the House Education Committee, represents a bipartisan agreement that will move us in the right direction to providing more support and investment for public education. While I support the overall framework that the bill provides, there are several amendments that I do not support.

I am deeply concerned with amendments to block grant federal education funds or to provide taxpayer dollars for private schools through a voucher system. Both proposals threaten precious Federal funding for public schools, most harshly impacting the schools that are the most vulnerable. We can reform and improve our public education system without diverting funds from our already financially strapped public schools.

Although this bill is an important step forward, there is still unfinished business to address if we are sincere about proving education in this country. One of the most glaring omissions is the lack of funding for school construction. In my state of Oregon, 96 percent of schools need to be upgraded or repaired. In the Northwest alone, 25,000 schools need major repairs or outright replacement. Schools can serve a vital function in the com-

munity, both as places for our children to learn and grow and as a center for community activity, but only if our schools are safe places for students and adults to learn on modern technology and equipment. Investment in renovation of existing schools can significantly enhance community livability.

H.R. 1 also provides no additional funding for Individuals with Disabilities in Education Act (IDEA). In the 94th Congress, we mandated special education access for children with severe learning disabilities. Along with that mandate came a promise that the federal government would pay 40 percent of the cost, this was the right thing to do given the increased costs that are often required to teach children with special needs. Unfortunately, the Federal Government has yet to fulfill its commitment to IDEA. We have missed yet another opportunity today to provide full funding for this critical program.

Education, like livable communities, is for all of us—not just a select few. The Federal Government should lead by example in offering the best possible public education to our nation's children. H.R. 1 is a good start, but we have a long way to go.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DICKS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 384, noes 45, not voting 4, as follows:

[Roll No. 145]

AYES—384

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr

Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLaHunt
DeLauro
DeLay
Deutsch

Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Fletcher
Foley
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez

Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley
Horn
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Klecza
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Langevin
Lantos
Largent
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)

Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller (FL)
Miller, Gary
Miller, George
Mink
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Oliver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascarell
Pastor
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Platts
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roukema

Roybal-Allard
Royce
Rush
Ryan (WI)
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Schiff
Schrock
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skeltton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spence
Spratt
Stark
Stenholm
Strickland
Stupak
Sununu
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Traffant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—45

Akin
Bartlett
Conyers
Crane
DeMint
Doolittle
Duncan
Filner
Flake
Frank
Gilchrest
Goode

Hefley
Herger
Hilliard
Hoekstra
Hostettler
Johnson, Sam
Jones (NC)
Kerns
Lewis (KY)
Manzullo
Moran (KS)
Paul

Payne
Pence
Pitts
Pombo
Rivers
Rohrabacher
Ryun (KS)
Sabo
Scarborough
Schaffer
Scott
Sensenbrenner

Sessions
Shadegg
Souder

Stearns
Stump
Tancredo

Waters
Watt (NC)
Weldon (FL)

NOT VOTING—4

Cubin
Larson (CT)

Moakley
Visclosky

□ 1925

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1, NO CHILD LEFT BEHIND ACT OF 2001

Mr. UPTON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1836. An act to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1836) "An Act to provide for reconciliation pursuant to section 104 of the concurrent resolution on the budget for fiscal year 2002" requests a conference with the House on the disagreeing votes of the two Houses thereon; and appoints Mr. GRASSLEY, Mr. HATCH, Mr. MURKOWSKI, Mr. NICKLES, Mr. GRAMM, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. DASCHLE, and Mr. BREAUX, to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 1836, ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1836) to provide for reconciliation pursuant to

section 104 of the concurrent resolution on the budget for fiscal year 2002, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. THORNBERRY). Is there objection to the request of the gentleman from California?

Mr. McDERMOTT. Mr. Speaker, reserving the right to object, President Bush has said that this bill, which is the tax bill, should be rushed through the Congress to, first, stimulate the economy; and then, more recently, has been offered as a means by which we can deal with the energy crisis in this country.

Now, unfortunately, this bill does not meet the President's request, because it gives no tax relief whatsoever to the people in the bottom part of the Tax Code, those people who do not pay income tax; those people who will be paying \$3 a gallon for gasoline, and who are paying enormous rates for electricity in California, Washington, and Oregon.

□ 1930

Now, in the Committee on Ways and Means, we tried to offer amendments on a windfall profits tax, because in the fall and in the winter, people are not going to be able to pay their utility bills.

It is my view that there ought to be conservation rebates in this bill. There ought to be a whole series of energy-related issues taken up in this bill since this is going to be the tax bill of the session.

There is no more money left. This is it. We have been told \$1.3 trillion. It is out the door, and there is no chance to come back on energy. There is no chance to come back on any of the problems related to the economy because of the energy crisis in this country.

It is my belief that we ought to be dealing with that now. It is a crisis. The California Assembly is suing FERC, the Federal Energy Regulation Commission, because they will not impose price caps. You have a situation where you have price gouging all over the West.

Energy companies in Texas have gotten 400 percent profit in the last 6 months. I mean, we all believe in the free enterprise system, but 10 percent, 15 percent, that is enough, I should think, 400 percent being put on the backs of people who are not going to get a penny out of this tax bill.

This bill deals with people like us and above. It does not deal with people who are making \$25,000 a year for a family of four. They get absolutely nothing out of this bill. I think that the President is being done a disservice by this House by us not dealing with energy in this piece of legislation.

Mr. Speaker, I, for that reason, have raised the objection that I think we ought to stop the process, go back to committee and work it out. We do not

need to go rushing to the conference committee. It will be rushed back tomorrow. There will not be a soul in this House who knows what is in the bill.

We can get on those planes tomorrow at 5 p.m., everybody is going to say we passed a tax cut; and they are not going to know what they did. It is my view that the crisis in energy in this country that is beginning in California, it is going to cover the entire country.

Anybody who does not believe that, they should go to Los Angeles, walk around for a week, and you will see what is going to happen in the rest of the United States.

Some of my colleagues are already facing places where gasoline prices are up over \$2, \$2.50 in some parts of this country this last weekend.

Think of those people who have to commute 30 miles, 40 miles, 50 miles, 60 miles a day in an SUV that gets 10 miles, 12 miles, 15 miles to the gallon. It is going to be expensive, and my colleagues are going to hear about it. My colleagues will have passed the only tax bill of this session without ever dealing with energy.

Mr. FILNER. Mr. Speaker, will the gentleman yield?

Mr. McDERMOTT. I yield to the gentleman from California.

Mr. FILNER. Mr. Speaker, the motion is to go to conference, because the tax bill has got to get out before Memorial Day. I wish the majority party, the gentleman from California (Mr. THOMAS), the distinguished chairman of the Committee on Ways and Means, would say we need to get out a bill to help California and the West before Memorial Day.

Why are we rushing on this before Memorial Day when California is being bled dry? The gentleman from California (Chairman THOMAS) knows what is going on in California. We are paying as a State now \$3 million an hour for electricity. We are paying \$70 million, sometimes \$90 million a day, over \$3 billion a month.

No State, even if it is the sixth biggest economy in the world, can survive that kind of bleeding.

Mr. Speaker, 65 percent of the business in San Diego County by a report that came out by the Chamber of Commerce, 65 percent of the small businesses in San Diego County are facing bankruptcy this year because of energy. They cannot survive given the costs of electricity.

We have social service organizations for our children who we are not going to leave behind after the last vote closing up half the time because of the overhead in electricity.

We have schools who cannot teach because of the overhead in electricity. We have libraries that cannot buy books because of the overhead in electricity. We are bleeding in California and in Oregon and in Washington and in New Mexico and Wyoming and Montana. In Rhode Island, I heard the prices have just doubled.